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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Feasibility of a global fund to enhance the capacity of stakeholders to implement the Guiding Principles on Business and Human Rights

Report of the United Nations High Commissioner for Human Rights

Summary

In its resolution 26/22, the Human Rights Council requested the United Nations High Commissioner for Human Rights to consult with States and relevant stakeholders to develop concrete options and proposals to inform a decision on whether to create a global fund to enhance the capacity of stakeholders to implement the Guiding Principles on Business and Human Rights, and to submit a report thereon to the Council at its twenty-ninth session.

The present report, prepared pursuant to that request, provides a summary of stakeholder views on issues relating to the scope and structure of such a fund. The High Commissioner recommends further steps for consideration by the Council and proposes that the Office of the United Nations High Commissioner for Human Rights be mandated to develop a pilot project to test the viability of a capacity-building fund in this area, subject to available resources.

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I. Introduction

1. In its resolution 21/5, the Human Rights Council recognized the importance of building the capacity of all actors to better manage challenges in the area of business and human rights and requested the Secretary-General to undertake a study to explore the feasibility of establishing a global fund to enhance the capacity of stakeholders to advance the implementation of the Guiding Principles on Business and Human Rights.

2. The main findings of the feasibility study were included in the report of the Secretary-General on the challenges, strategies and developments with regard to the implementation of resolution 21/5 by the United Nations system, including programmes, funds and agencies (see A/HRC/26/20, paras. 61–80). As a result of the consultations undertaken for the feasibility study, it was found that there was broad consensus among Governments and business and civil society representatives on a new fund to support the implementation of the Guiding Principles and that such a fund would be a useful mechanism.

3. In its resolution 26/22, the Council welcomed the report of the Secretary-General and requested the United Nations High Commissioner for Human Rights to consult with States and relevant stakeholders to develop concrete options and proposals to inform a decision on whether to create such a fund, and to submit a report thereon to the Council at its twenty-ninth session. The present report was prepared pursuant to that request and should be read in conjunction with the feasibility study (A/HRC/26/20/Add.1). In the preparation of the present report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) invited all Member States and relevant stakeholders to provide views and recommendations on possible options for a new capacity-building fund to advance the implementation of the Guiding Principles. OHCHR also presented an overview of responses received and discussed potential options for next steps at an informal consultation with Member States on 9 April 2015.

4. With respect to the scope of a potential fund, OHCHR requested stakeholders to provide views on the relative importance of initial priorities identified in the first round of consultations, including on: (a) providing support to civil society, human rights defenders and organizations that assist those whose human rights are affected by business activities to build their capacity to advocate effectively at the international, national and local levels and to assist victims in accessing remedy; (b) providing support to States with limited capacity to implement the Guiding Principles, including, for example, by supporting government processes to develop national action plans on business and human rights; and (c) providing support to civil society, business networks, trade unions, think tanks, national human rights institutions and other organizations that conduct awareness-raising and training activities.

5. On the matter of the potential structure of a new fund, OHCHR requested views on options that could most effectively advance implementation and meet capacity-building needs concerning the Guiding Principles at all levels of governance and across all relevant stakeholder groups, as recommended in the feasibility study. Fund models for consideration could include: (a) a structure similar to other voluntary trust funds on human rights issues to be administered by the Secretary-General, with OHCHR providing secretariat services, including by pre-screening applications, monitoring and evaluating the use of grants and providing support to the board of trustees; (b) a multi-party trust fund structure with a policy body comprising national authorities from different regions, OHCHR and other relevant United Nations agencies, to set priorities and take decisions on grants to be awarded and administered through the Multi-Partner Trust Fund Office of the United Nations Development Programme; and (c) establishment of a legally independent

organization with international, non-profit status or an existing organization tasked with administering the fund. Such an organization would be accountable to the Secretary-General and would establish a multi-stakeholder board comprising representatives from donor and recipient countries, as well as the private sector and civil society, which would be responsible for setting priorities and awarding grants, as well as for overseeing and monitoring programme implementation. The multi-stakeholder board would also be responsible for securing effective secretariat support for project screening, funds disbursement, monitoring and evaluation, and legal and financial management.

6. The present report seeks to advance consideration by the Human Rights Council on whether to create a new capacity-building fund for the implementation of the Guiding Principles. The following section summarizes the perspectives of stakeholders who provided written submissions for the most recent consultation process. Based on those submissions as well as on the Secretary-General's feasibility study, the High Commissioner proposes further steps for consideration by the Human Rights Council at its twenty-ninth session.

II. Summary of stakeholder views

7. Only a small number of responses were received in this round of consultations (four from States and two from civil society, one of which was a joint submission). It should be recalled that, although the consultations for the feasibility study had indicated wide support for the establishment of a new fund for the implementation of the Guiding Principles and that such a fund could be a useful mechanism, there was also a diversity of views concerning the priorities and governance arrangements for such a fund. The current consultations therefore sought to elicit additional views on issues relating to the scope and structure of a new fund.

A. Stakeholder views on the scope of a new fund

8. In the feasibility study it was noted that, given the importance placed by all actors on the interrelated nature of the three pillars of the "Protect, Respect and Remedy" Framework, it seemed evident that the mandate for such a fund should be broad, with the ability to support projects to advance the implementation of and the capacity-building needs concerning the Guiding Principles at all levels of governance and across all relevant stakeholder groups. It was also noted that there appeared to be a widely shared view that a new fund should be designed in a way that would encourage further multi-stakeholder cooperation (see A/HRC/26/20/Add.1, para. 50). In the consultation process undertaken for the feasibility study, there was broad consensus among stakeholders that a new fund should not prioritize the provision of resources directly to the United Nations Secretariat and agencies to carry out capacity-building activities in the area of business and human rights. While support to civil society actors was widely viewed as being a key priority, there was a much broader range of views concerning other potential actors and activities that such a fund might support.

9. Those views were broadly reaffirmed in the most recent stakeholder submissions, which offered a number of additional recommendations as well. In one submission, it was proposed that a new fund should allow sufficient scope for the identification of regional priorities. It was suggested that stakeholders in some regions might benefit more from activities such as awareness-raising or capacity-building, for example, to advise small and medium-sized businesses on corporate human rights due diligence processes, whereas other regions might view the provision of support to communities in defending their rights vis-à-vis companies as a more immediate priority. In another submission, it was suggested that a

fund in the area of business and human rights should be flexible enough to allow for the development of region-specific tools for enhancing corporate human rights due diligence, as well as support communities that have been negatively affected by corporate activities. In yet another submission, it was proposed that a fund should support implementation activities linked to the establishment of national action plans on business and human rights, while noting that civil society activities were, in some cases, part of such initiatives.

10. In other submissions, specific priorities were proposed, including: (a) increasing the capacity of indigenous peoples and other marginalized stakeholders on issues relating to business and human rights; (b) facilitating greater access to relevant reports and documents, including through translation into national and indigenous languages; and (c) ensuring broader participation of indigenous peoples and marginalized groups at relevant United Nations and related meetings. In one submission, the importance of supporting human rights defenders in carrying out their work was reiterated, in particular with regard to documenting the impact of corporations and ensuring access to effective remedies.

11. Some stakeholders proposed that a new fund should prioritize strengthening the capacities of the most disadvantaged groups, including indigenous peoples, through activities such as: (a) training for indigenous peoples and disadvantaged groups on the contents and utilization of the Guiding Principles; (b) activities, designed in partnership with indigenous peoples, for State and private actors relating to indigenous peoples' rights in the context of the business activities that have an impact on them; (c) research on the implementation of the Guiding Principles, including with a view to reviewing and improving existing implementation mechanisms; and (d) monitoring and documentation of cases of business activities that have had an impact on the rights of indigenous peoples and dissemination of reports for awareness-raising and advocacy purposes.

12. With respect to the duration of the project, funds and recipient profiles, in one submission it was proposed that the fund should prioritize multi-year capacity-building projects rather than shorter term, one-off projects or activities, and suggested that the fund could establish a budget range of $10,000–$50,000 for projects, including multi-year projects of one to three years' duration. In another submission, it was stressed that the fund should be accessible to a wide variety of organizations, including, as proposed in the feasibility study, civil society organizations, business networks, trade unions, think tanks, national human rights institutions and other organizations that conduct awareness-raising and training activities.

B. Stakeholder views on the structure of a new fund

13. The consultations undertaken for the feasibility study highlighted a diversity of stakeholder views on the most effective structure of a fund aimed at building capacity in the area of business and human rights. As noted in the study, in a large majority of submissions it was indicated that OHCHR should be a key actor in administering such a fund. Some stakeholders stated that the Working Group on the issue of human rights and transnational corporations and other business enterprises should play a central role in shaping the fund's strategic approach. In a number of submissions, the importance of ensuring an efficient governance structure and limiting administrative costs was stressed (see A/HRC/26/20/Add.1, para. 39).

14. Similarly, the consultation process for the present report did not result in a clear consensus on the most desirable governance arrangement for a fund in the area of business and human rights. For example, although some States indicated a preference for a traditional voluntary trust fund that relied on existing structures, others focused on the importance of simple and effective procedures that would not discourage potential applicants, in particular civil society representatives, from seeking support through such a

fund. One State suggested that a public-private partnership model, supported by oversight from international human rights bodies or expert teams, could be more flexible, encourage multi-stakeholder cooperation and effectively manage the fund. Another State favoured a structure wherein governance would be provided by involving national authorities from all regions, as well as OHCHR and other United Nations bodies.

15. Civil society representatives suggested that a board of trustees on which rights holders would be represented and that would be administered by OHCHR would be most appropriate for a new fund in the area of business and human rights. In a joint civil society submission, it was noted that experience with existing funds, such as the United Nations Voluntary Fund for Indigenous Peoples, indicated that fund governance should, in this case, focus on: (a) establishing a procedure for the selection of the members of a board of trustees to ensure familiarity with potential applicants within their constituency, while safeguarding the independence of collective decision-making on grant approvals; (b) developing and publishing eligibility criteria on who may seek support through the new fund — in that context, it was suggested that organizations and groups, in particular indigenous peoples, should not be required to be legally registered in their countries of origin in order to obtain funds; and (c) ensuring that an effective pre-screening procedure is in place to review the legitimacy and past performance of eligible organizations.

16. One civil society stressed the importance of establishing a governance structure that would help secure local and multi-stakeholder support for fund-related activities. It was suggested, in that context, that an independent organization with a multi-stakeholder board responsible for setting priorities, awarding grants, and overseeing and monitoring programme implementation would represent the structure most likely to effectively advance implementation and meet capacity-building needs concerning the Guiding Principles at all levels of governance and across all relevant stakeholder groups.

III. Conclusion and recommendations

17. **In the light of the foregoing summary of stakeholder views, the High Commissioner provides the following conclusion and makes recommendations on the next steps to be considered by the Human Rights Council during its twenty-ninth session.**

18. **Firstly, the High Commissioner wishes to stress that any decisions taken by the Council on this issue should be made in the light of broader human rights capacity-building and technical assistance trends, as well as the current overall funding situation of OHCHR and the wider United Nations human rights system. In that context, it should be recalled that demands for human rights assistance continue to increase exponentially, yet, owing to a lack of resources, OHCHR has been obliged to significantly reduce its programme of activities for 2015. That reality clearly needs to be considered in further discussions by the Council on the viability of a new fund to strengthen the capacity of stakeholders to implement the Guiding Principles on Business and Human Rights.**

19. **Secondly, the High Commissioner wishes to stress that, as noted in the feasibility study, any decision concerning a new fund in the area of business and human rights should be made in coordination with the Working Group on the issue of human rights and transnational corporations and other business enterprises. Given its mandate to identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles, as well as its role in providing support for efforts to promote capacity-building and the use of the Guiding Principles by all**

actors, it would be important to involve the Working Group in shaping the strategic approach of a new fund.

20. Thirdly, the High Commissioner wishes to reiterate that there appears to be broad agreement among all stakeholders that a new fund would be a useful mechanism to advance the implementation of the Guiding Principles, and that such a fund should be able to accept financial contributions from any actor, including States, businesses, philanthropic organizations and individuals. Equally important, and as noted in the conclusions to the feasibility study, is the broad consensus on the importance of establishing appropriate safeguards for the legitimacy and independence of any new funding arrangement in this area, including by ensuring full transparency of donors and the allocation of resources to individual projects.

21. Those points of consensus constitute a useful foundation upon which further actions by the Council can be taken. However, there remains a diversity of views on the priority actors and activities to be supported by a new fund, as well as the most effective structure for ensuring maximum impact. With those aspects in mind, in addition to the current financial challenges noted above, it would appear that a useful next step would be to create the conditions for multi-stakeholder testing of how capacity-building support in this area could be delivered in practice. Such a step would encourage further dialogue and the collection of additional information, including with respect to the degree of donor interest in supporting capacity-building in this area on a more permanent basis.

22. Given the above considerations, the High Commissioner recommends that the Human Rights Council consider the following:

(a) In order to further inform the Council's decision on whether to create a permanent mechanism to support stakeholder capacity for implementing the Guiding Principles on Business and Human Rights, OHCHR should be requested to develop a pilot project to test the viability of a capacity-building fund in this area. It should be stressed, however, that a pilot project can only be implemented if sufficient resources, to be determined by OHCHR, are received;

(b) As part of the pilot project, OHCHR should be mandated, in collaboration with the Working Group on human rights and transnational corporations and other business enterprises and other relevant United Nations system partners, to provide financial support, subject to available resources, for a representative number of pilot capacity-building projects concerning implementation of the Guiding Principles, and to report to the Council in three years on the findings arising from and the lessons learned from the pilot project;

(c) The High Commissioner should be invited to consult with a multi-stakeholder group of individuals and organizations representing all relevant constituencies to provide OHCHR with strategic guidance during the pilot project, including in the development of eligibility criteria for pilot capacity-building projects. Such consultations could be initiated during the fourth annual Forum on Business and Human Rights, to be held in November 2015 and to be organized in coordination with the Working Group. Individuals and organizations involved in the consultations should not have authority with respect to decision-making on which projects to support or on matters relating to who can contribute or benefit from funding. Equally, private and public donors to the pilot capacity-building projects should not have a direct role in decisions concerning which projects to support, so as to avoid any conflict of interest.

23. Given the results of the consultations to date and the importance that all partners have placed on the interrelated nature of the three pillars of the "Protect,

Respect and Remedy" Framework and the Guiding Principles, the Council should confirm that the mandate for a pilot project should be broad, with the ability to support projects to advance the implementation and meet capacity-building needs concerning the Guiding Principles at all levels of governance and across all relevant stakeholder groups, excluding United Nations agencies or programmes. Priority should be given to all key stakeholder groups in developing countries, for example, by:

(a) Supporting civil society organizations with limited resources to increase the capacity of local communities and marginalized stakeholders on issues relating to the implementation of the Guiding Principles;

(b) Developing multi-stakeholder cooperation focusing on assisting small and medium-sized companies in implementing their responsibilities in accordance with the Guiding Principles;

(c) Assisting Governments that are developing national business and human rights action plans.

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Human Rights Council
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Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary report of the Office of the United Nations High Commissioner for Human Rights on the outcome of the full-day discussion on specific themes relating to human rights and climate change

Summary

The present report is submitted pursuant to Human Rights Council resolution 26/27. It provides a summary of the full-day discussion on human rights and climate change held on 6 March 2015 during the twenty-eighth session of the Council.

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I. Introduction

1. Pursuant to its resolution 26/27, the Human Rights Council held a full-day discussion on 6 March 2015 on specific themes relating to human rights and climate change. Two panel discussions were held, the details of which are provided in the present report by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

2. The discussion was chaired by the President of the Human Rights Council and opened with a video message from the Secretary-General, followed by an address from the Deputy High Commissioner for Human Rights.

3. The first panel discussion focused on identifying challenges and ways forward towards the realization of all human rights, including the right to development, for all, in particular those in vulnerable situations. It included the measures and best practices to promote and protect human rights that could be adopted by States in addressing the adverse effects of climate change on the full and effective enjoyment of human rights. The panel was moderated by the Executive Director of the South Centre, Martin Khor. The panellists were: the President of Kiribati, Anote Tong; the Minister for Foreign Affairs of Bangladesh, Abul Hassan Mahmood Ali; the President of the Mary Robinson Foundation – Climate Justice, Mary Robinson; the Coordinator and Principal Legal Adviser in the secretariat of the United Nations Framework Convention on Climate Change, Dan Bondi Ogolla; the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz; and the Secretary-General of the Pan African Climate Justice Alliance, Mithika Mwenda.

4. The second panel discussion focused on the adverse impact of climate change on States' efforts to progressively realize the right to food, as well as policies, lessons learned and good practices. It opened with a video message from the Special Rapporteur on the right to food, Hilal Elver, and was moderated by the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John Knox. The panellists were: the Prime Minister of Tuvalu, Enele Sosene Sopoaga; the Administrator of the National Food Authority of the Philippines, Renan B. Dalisay; the Director of the Geneva Liaison Office of the Food and Agriculture Organization of the United Nations (FAO), Xiangjun Yao; the General Secretary of the World Council of Churches, Olav Fykse Tveit; the General Coordinator of La Via Campesina, Elizabeth Mpofu; and the Permanent Representative in Geneva of FoodFirst Information and Action Network International, Ana-Maria Suarez Franco.

5. Ms. Robinson provided closing remarks drawn from the two panel discussions.

II. Opening session

6. In his video message, the Secretary-General stated that climate change posed a threat to sustainable development and, in some cases, even to human survival. It could fuel famine, political upheaval and conflicts over resources and had disproportionate impacts on women, the poor, indigenous peoples, traditional farmers, coastal communities and migrants. He observed that people living in developing countries, particularly in small island developing States, in Africa and in the least developed countries had contributed the least to dangerous carbon emissions but were bearing the brunt of the negative impacts of climate change. He demanded immediate climate action to transform economies and harness the potential of a low-carbon future. He called upon States to come to a meaningful universal agreement at the Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Paris in December 2015, and called for the

Human Rights Council to demonstrate leadership and do its part to achieve urgently needed progress.

7. The Deputy High Commissioner for Human Rights, Flavia Pansieri, stated that human-induced climate change undercut the rights to health, food, water and sanitation, adequate housing and — for the people of small islands and coastal communities — even the rights to self-determination and survival as distinct peoples. The Intergovernmental Panel on Climate Change — the world's most authoritative voice on climate science — had conclusively documented the immediate and long-term harm that climate change brings to our environment, and the seven resolutions of the Human Rights Council on climate change clearly detailed the impact of climate change on the enjoyment of human rights.

8. She said that the Intergovernmental Panel and the Human Rights Council had highlighted the disproportionate impact that climate change had on poor, vulnerable and marginalized communities, and on people already at risk owing to factors such as gender, poverty, age, minority status and disability. Those who had contributed the least to greenhouse gas emissions, including the poorest people in the poorest countries and future generations worldwide, would be affected the most.

9. Ms. Pansieri called for immediate action to implement a human rights-based approach to climate change that identified and satisfied the most pressing needs of vulnerable persons living in our highly inequitable global society, and that promoted careful stewardship of the world's resources and higher levels of accountability for the benefit of all. A new legally binding climate agreement would strengthen the commitments made by States in the 2010 Cancun Agreements to ensure that "parties shall, in all climate change-related actions, respect, protect, promote and fulfil human rights for all"[1] and include clear references to the human rights principles of equality, non-discrimination, accountability, participation, empowerment, solidarity and transparency, among others.

10. Discussing the larger global context, including the post-2015 development agenda and financing for development negotiations, she emphasized that a rights-based approach must not only be integrated within all relevant international discussions and outcomes, but also followed by action. The Deputy High Commissioner exhorted States to take real steps to reduce the harmful effects of climate change, in ways that are fully consistent with their human rights obligations.

11. Equitable climate action, which is designed to limit climate change and prevent and mitigate its negative impacts, must have people's rights at its core. Care must be taken to prevent and remedy any negative impacts on the human rights of groups that are vulnerable, marginalized, discriminated against or at risk, including indigenous peoples, minorities, persons living in poverty, migrants and displaced persons, older persons, persons with disabilities and children, and to empower and protect the rights of women.

12. Ms. Pansieri said that, at the most recent meeting of the Ad Hoc Working Group on the Durban Platform for Enhanced Action on climate change, held in Geneva in February 2015, several States had expressed support for the inclusion of strong language on human rights in forthcoming agreements, and 18 States had signed the "Geneva Pledge on Human Rights and Climate Action".[2] She urged all States to make this commitment and called upon participants to highlight the critical linkages between human rights and climate change and to promote action-oriented outcomes to facilitate global, local, individual and collective efforts to save humanity from irreversible global warming and its devastating impact on human rights.

[1] See www.ohchr.org/Documents/HRBodies/SP/SP_To_UNFCCC.pdf.

[2] See http://carbonmarketwatch.org/wp-content/uploads/2015/02/The-Geneva-Pledge-13FEB2015.pdf.

III. Summary of the first panel discussion

13. Opening the panel as moderator, Mr. Khor asserted that climate change must be considered as a package that included the environment, development and equity. Climate change, development and human rights should be addressed in an equitable and integrated manner. A human rights-based approach demands the inclusion of climate justice, as well as international cooperation and solidarity, all of which are essential in supporting developing countries, including through finance and technology. Such coordination and cooperation at the global level should be based on solidarity, equity, justice and respect for human rights.

A. Contributions of panellists

14. Relating the story of his island nation's struggle for survival, the President of Kiribati, Mr. Tong, said that it was time for everyone to listen and to act. He said that 2015 would be a critical turning point in human existence, when solidarity and a revitalized approach to multilateralism would become essential. He said that human rights considerations must be reflected in climate change discussions and that the actions of the international community would determine whether or not the generations to come have a future. He said it was time to move forward from abstract discussions, as the real human impacts were being felt in countries like Kiribati.

15. Mr. Tong said that climate change was the biggest moral challenge facing humankind. It threatened the very survival of peoples and nations. It was a global problem demanding global leadership. To spur action, the human face of climate change must be understood. The previous week, Kiribati had recorded its highest tides, which caused substantial damage to a hospital and a road construction project. In countries on the front line, immediate action to prevent, mitigate and adapt to climate change was essential. Despite this, he said, Kiribati would continue to gradually fall victim to the rising tides. Mr. Tong asked what the Human Rights Council and others would do about it.

16. Mr. Tong condemned the relative lack of action by the international community in the face of the moral imperative to protect humanity from the ravages of climate change. Recent negotiations had been disappointing, making the 2015 Paris Conference of the Parties to the United Nations Framework Convention on Climate Change all the more critical. He called upon all States to sign the Geneva Pledge and to ensure that the outcome of the upcoming negotiations protected human rights.

17. Mr. Tong emphasized that the threat climate change posed to Kiribati was real, and demanded immediate action. He said that the Government had taken steps to protect its people and plan for the future. It had bought land in Fiji and aimed to prepare its people so they could migrate with dignity. However, he said, Kiribati could not address the problem or protect its people alone. Therefore, the President urgently appealed for assistance from the international community and for an immediate call to action from the Council as the voice of the vulnerable and the moral authority of the international community.

18. The Minister for Foreign Affairs of Bangladesh, Abul Hassan Mahmood Ali, described climate change as one of the greatest challenges ever faced. He emphasized the need for a transformative shift and a robust, legally binding outcome at the 2015 Paris Conference of the Parties. This outcome should recognize that small island developing States, the least developed countries and African nations faced unique threats from climate change and had special needs. He said that, although slow-onset climate-induced disasters like river erosion, desertification and salinity intrusion did not make headlines, they affected peoples' lives and could lead to internal displacement and transnational migration.

In Bangladesh, climate change was estimated to cause the loss of between 2 and 3 per cent of gross domestic product per annum. This had a real impact on the enjoyment of human rights, particularly for the most vulnerable.

19. Mr. Ali said that it was necessary to increase resilience and improve coping mechanisms. By focusing on impacts on the poorest communities, peoples and countries, the human rights perspective offered a way forward in addressing the existential threat posed by climate change. Its magnitude varied across countries, communities and peoples according to their geographic location, wealth and other factors, raising questions of fairness and equity. In the developing world, there were limited resources for prevention, mitigation and adaptation measures. Despite this, Bangladesh had taken several measures. It had installed around 4 million solar home systems and more than 1 million improved cooking stoves, had developed stress tolerant crop varieties and had mobilized over 385 million dollars in domestic resources for adaptation and mitigation measures.

20. However, he said, this was not sufficient. States must recognize their shared responsibility to address climate change and its impacts, including by advancing the discussion on human rights and climate change in the Council and other forums. The international community must step up its commitments and actions to address climate change so that the silent millions who faced its worst impacts could survive. Mr. Ali hoped that the voice of 160 million Bangladeshis, many of whom lived in low-lying coastal areas, would be heard by the Council.

21. The President of the Mary Robinson Foundation – Climate Justice, Mary Robinson, stated that climate change had real impacts on the enjoyment of human rights and that time was running out to avoid further impacts. She said that, in 2015, the international community had before it a unique opportunity to set a new path for sustainable development on the basis of alternatives to fossil fuels that would ensure the rights of generations to come. Such a change must be climate just and ensure full participation of all countries regardless of their current levels of emissions and development. Climate change, more than any other issue, highlighted our interdependence. No country could alone protect its citizens from the impacts of climate change, which meant that the international community must work together to address the challenges that climate change posed for the realization of human rights, especially the right to development.

22. Ms. Robinson said that, in the future, society would have to employ low-carbon technologies, guarantee decent work for all, promote equality, build sustainable cities and preserve vital ecosystems. A human rights-based approach to development should focus on fulfilling for all persons the minimum conditions necessary for a life of human dignity. Faced with climate change, persons in vulnerable situations must have their rights protected, be given access to measures of adaptation and resilience and receive the support of the international community. A rights-based response should also maximize inclusion, participation and equality.

23. Ms. Robinson advocated for a renewed focus on good practices and the use of human rights obligations, standards and principles to inform and strengthen national policymaking in climate change. The Foundation had identified 12 countries that actively linked human rights and climate change in policymaking in their national reports to both the secretariat of the United Nations Framework Convention on Climate Change and the Human Rights Council; however, she said, more work was required to learn from those experiences and scale up good practices. There was also a need to bring climate change negotiators and human rights experts together to collaborate more closely. Ms. Robinson called for the creation of a forum under the Convention and the Council for the sharing of experiences and good practices, in order for the human rights community to prepare guidelines for the integration of human rights in climate change policymaking – noting that the Geneva Pledge was encouraging this to happen at the national level – and for States to

consider the linkages between human rights and climate change during the universal periodic review.

24. The Coordinator and Principal Legal Adviser in the secretariat of the United Nations Framework Convention on Climate Change, Dan Bondi Ogolla, described the interface between human rights and climate change. He said that climate change could directly affect human rights, for example, by loss of land through rising sea levels, which threatened livelihoods and culture. Response measures to climate change could also violate human rights. For instance, mitigation activities under the clean development mechanism implemented in indigenous lands could affect the rights to housing, property, culture and self-determination. Human rights principles, such as participation and freedom of information, may inform the implementation and development of relevant policies.

25. He said that the States parties to Convention had always been sensitive to the human dimensions of climate change. Under the Convention, the definition of the adverse effects of climate change included impacts on socioeconomic systems, human health and welfare and its provisions required States parties to minimize the adverse impacts of response measures and promote and facilitate public participation in addressing the effects of climate change.

26. He said that, in addressing issues such as adaptation, response measures and reducing emissions from deforestation and forest degradation in developing countries, the decisions of the Conference of the Parties had elaborated on the provisions of the Convention, offering guidance on implementation at the national level. They had held, inter alia, that responses to climate change should be integrated with social and economic development plans; all stakeholders should be engaged in the development and implementation of climate change policies; and adaptation actions should follow a participatory approach, taking into account the views of and likely impacts on vulnerable groups and communities.

27. Mr. Ogolla said the key challenges to be addressed were integrating human rights into international and national climate change policy frameworks and ensuring the full and effective protection of human rights in the implementation of climate-related actions. The Cancun Agreements represented a key step, wherein States parties agreed that they should fully respect human rights in all climate-related actions and recognized the need to engage a broad range of stakeholders. They established safeguards for activities aimed at reducing emissions from deforestation and forest degradation, including requirements that such activities must be made consistent with relevant international conventions, respect the knowledge and rights of indigenous peoples and involve the full and effective participation of relevant stakeholders. Going forward, he said that the negotiating text adopted recently by the Ad Hoc Working Group contained several ideas for further integrating human rights within the multilateral climate change regime.

28. The Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, stated that, although indigenous peoples were among those who had contributed the least to climate change, they suffered some of its worst impacts. They often lived in and relied on fragile ecosystems, damage to which threatened their homes, livelihoods and cultural survival. Climate change threatened their rights to self-determination, development, food, water, land and culture. Efforts to prevent, mitigate and adapt to climate change could also threaten their rights. Production of biofuels could lead to land grabbing, and displacement and construction of hydroelectric dams and other renewable energy projects could cause displacement and ecological damage. These activities should not be permitted without the consent of potentially affected peoples.

29. She said that indigenous peoples could contribute to mitigation and adaptation efforts. Their knowledge of ecosystems could support the effective use of resources for

agriculture and forestry. Titling of their lands and territories may support preservation of forests and improved carbon storage. A study by the World Resources Institute found that strengthening indigenous peoples' and local communities' rights to their forests helped Governments to meet climate goals, safeguard forests and protect livelihoods. Indigenous climate observations and community-based monitoring could help to reduce monitoring costs and enhance early warning systems.

30. Ms. Tauli-Corpuz said the outcome of the 2015 Paris Conference of the Parties must ensure that respecting all human rights for all is integral to all decisions and actions for mitigation and adaptation. The Conference should request inputs and advice from OHCHR and human rights mechanisms on operationalizing human rights protections in climate policy and any new agreement should include language on indigenous peoples' rights. She said that participation was critical and indigenous peoples must have a voice and vote in climate-related decisions. Climate funds must include seats for indigenous peoples as observers. More States should sign the Geneva Pledge and act to protect the rights of those most vulnerable to climate change.

31. Mr. Mwenda highlighted the need to ensure that human rights were protected in climate policymaking affecting Africa. He said there was a need for a broad understanding of human rights that emphasized the right to development, especially achieving equitable or even equal development between States. In addition to having the obligation to protect human rights within their borders, States and the international community had broader responsibilities to promote the realization of all human rights for all. States must act collectively, including through the secretariat of the United Nations Framework Convention on Climate Change.

32. Mr. Mwenda advocated for a paradigm shift that took into account concepts such as indigenous rights and the rights of Mother Earth. He said these were embedded in the cooperative values of the peoples of Africa and were essential for realizing the right to food in Africa. Nearly all States had accepted the extraterritorial reach of their legal obligations in relation to human rights. Therefore, discussions on climate change and human rights should focus on how best States could fulfil their responsibility. He called for the appointment of a special rapporteur on human rights and climate change, as recommended by the 2010 Social Forum. In the countdown to the 2015 Paris Conference of the Parties, establishing such a mandate would be timely and effective.

33. He recalled the statement of the Chair of the Group of 77 and China during the United Nations Climate Change Conference in Copenhagen in 2009, Lumumba Diaping, according to which 100 million sub-Saharan Africans would die owing to the unaddressed consequences of climate change in the twenty-first century. He said that, in Kenya, the Government had just issued a famine alert and was shipping emergency supplies to farming communities facing starvation owing to prolonged climate-related drought. Consequently, funds earmarked for infrastructure projects were being diverted. This was a vicious cycle that was an everyday reality for many in Africa. Mr. Mwenda concluded that those who had caused the problem could not be allowed to abdicate responsibility.

B. Interactive discussion

34. During the plenary discussion, representatives of the following States took the floor: Algeria (on behalf of the Group of African States), Bangladesh (on behalf of Belarus, Bolivia (Plurinational State of), China, Cuba, the Democratic People's Republic of Korea, Ecuador, India, Indonesia, Pakistan, the Philippines, Sri Lanka, Uganda and Venezuela (Bolivarian Republic of)), Chile, Ecuador (on behalf of the Community of Latin American and Caribbean States), El Salvador, Estonia, Fiji, France, Ghana, the Holy See, India, Indonesia, Iran (Islamic Republic of), Ireland, Maldives, Morocco, Namibia, Nepal,

Pakistan, Paraguay, the Philippines (on behalf of Afghanistan, Bangladesh, Barbados, Bhutan, Ethiopia, Ghana, Kenya, Kiribati, Madagascar, Maldives, Nepal, Rwanda, Saint Lucia, Timor-Leste, Tuvalu, the United Republic of Tanzania, Vanuatu and Viet Nam), Sierra Leone, Spain, Sweden (on behalf of Denmark, Finland, Iceland and Norway), Switzerland, the United States of America, Venezuela (Bolivarian Republic of) and Viet Nam. Representatives of the United Nations Children's Fund, the United Nations Population Fund and the European Union also participated in the discussion.

35. Representatives of the Scottish Human Rights Commission and the following non-governmental organizations spoke: Centre Europe – Tiers Monde – Europe – Third World Centre, Franciscans International (on behalf of 13 like-minded organizations), International Youth and Student Movement for the United Nations, Lutheran World Federation (also on behalf of ACT Alliance) and Verein Südwind Entwicklungspolitik.

36. Statements by the following States were not delivered owing to lack of time: Algeria, Bahrain, Bhutan, Brazil, China, Egypt, Madagascar, Mauritius, New Zealand, Panama, Peru, Portugal, Qatar, Slovenia, South Africa, the Sudan and Uruguay. For the same reason, statements by the International Development Law Organization, the International Organization for Migration and the United Nations Environment Programme (UNEP) were not delivered.

37. Delegations emphasized the need for urgent action to prevent, mitigate and adapt to climate change, which was described as an immutable fact that required immediate action, illustrated the growing interdependence of all peoples and States and posed an imminent threat to the environment, development and security. Delegations agreed that the upcoming negotiations in Paris were the best vehicle for reaching a universal, legally binding agreement on climate change. They agreed that 2015 presented another crucial opportunity to address climate change through the post-2015 development agenda and related processes as sustainable development was of critical importance. Stressing the need for drastic measures to promote sustainability, one delegation called for a shift from market-based systems to a life in harmony with Mother Earth.

38. All delegations concurred that human rights and climate change were interlinked and that the human rights dimension should be included in the Paris discussions. Several delegations cited their commitment to the Geneva Pledge as a positive step in that direction. One delegation emphasized that any new agreement in Paris should not override the human rights commitments made in the Cancun Agreements. However, another delegation cautioned that discussion of climate change by the Human Rights Council and of human rights at the 2015 Paris Conference of the Parties should not hinder climate negotiations.

39. Delegations agreed that climate change would continue to have an impact on many human rights. Several delegations described actual and anticipated impacts in their countries as well as their efforts to address those impacts. Delegations agreed that it was important to put a human face on climate impacts and to address climate-related migration. Delegations called for mitigation and adaptation efforts to place people at the centre, be gender sensitive and ensure the rights of the most vulnerable, including women, children, indigenous peoples and the poor.

40. Delegations reiterated that the poorest countries and the most vulnerable people had contributed the least to climate change yet were likely to suffer its worst impacts. This was particularly true of children and future generations and was a matter of justice and fairness. They called for recognition of the historical responsibility of the largest contributors to climate change through the application of the principle of common but differentiated responsibilities in efforts to address it. Research and development, technology transfer, capacity-building, development assistance, innovative finance and clean development mechanisms were critical to those efforts.

41. Several delegations made specific action-oriented recommendations. They called for developed countries to take the lead in addressing climate change; adequate funding and research into adaptation measures to help the poorest countries and the most vulnerable people; intensified research and development into renewable sources of energy and energy conservation to reduce the emissions intensity of growth; equitable access to technology, including, if necessary, the lowering of intellectual property standards; increased scrutiny of the impacts of climate change on human rights by special procedures mandate holders; the appointment of a special rapporteur on human rights and climate change; the creation of a climate justice fund; the establishment of an international climate court; and the exploration and expansion of the role of nuclear energy as a clean alternative energy source.

C. Responses and concluding remarks

42. During and after the interactive discussion, the panellists were given the opportunity to respond to questions and issues raised from the floor and to make concluding remarks.

43. Mr. Mwenda referred to the situation in Kiribati, which he said was literally sinking, and many States in Africa where multitudes were facing starvation. He compared the plight of humanity in the face of climate change to that of passengers struggling for survival during the sinking of the Titanic: the weak might suffer and die first but, in the end, everyone would sink. Given this reality, he called for a paradigm shift to address climate change and transition to low-carbon economies in an equitable, fair and ecologically sound manner that permitted continued growth in developing countries.

44. Ms. Tauli-Corpuz emphasized that the Paris agreement must provide for respect for human rights, including the rights of indigenous peoples, and described climate change as proof of a broken economic model that perpetuated inequalities. She proposed the implementation of the "polluter pays" principle and stressed the need for current actions to take into account likely impacts on future generations.

45. Mr. Ogolla asserted that human rights had already substantially influenced the climate change discourse, as evidenced by the Cancun Agreements and the negotiating text for Paris. He called for increased cooperation between the climate change and human rights communities, in order to better understand linkages and develop practical options for implementing policies.

46. Ms. Robinson reiterated the need for improved cooperation between the human rights and climate change constituencies. She referred to a recent event organized by the Climate Vulnerable Forum and her Foundation that highlighted the need for such cooperation and sharing of experiences. The Human Rights Council and mechanisms should continue their efforts to address the interlinkages, as sharing knowledge and good practices would be critical to the effective integration of human rights into climate action. She encouraged States to sign the Geneva Pledge. Affirming that countries needed development and had a right to development, she reiterated the need for climate actions to help realize the right to development for all people and promote intergenerational justice.

47. Mr. Ali described climate change as a political issue steeped in concerns over equity, fairness and dignity. Adaptation and mitigation measures in developing countries faced limitations and the mere recognition of climate change and its impacts was not sufficient. Instead, he called for a political commitment to a legally binding document addressing effective cooperation, compensatory finance, technology transfer and other issues.

48. Mr. Tong reiterated his plea for immediate, concrete action to address climate change. The continuing discussions on climate change had not yielded concrete actions. The people of Kiribati and other affected nations needed actions to deal with its impacts now. Mr. Tong concluded that climate change was the greatest moral challenge facing

humanity, that its reality and impacts were the subject of consensus and that it was time the international community actually did something about it.

IV. Summary of the second panel discussion

49. At the outset, the moderator, Mr. Knox, recalled the 2014 Human Rights Day message from all special procedures mandate holders, which described climate change as one of the greatest challenges of our generation, highlighted its disproportionate effects on disadvantaged, marginalized, excluded and vulnerable individuals and groups, and urged the incorporation of human rights obligations into climate change negotiations. In the Geneva Pledge, States made a concrete commitment to further this objective. In a recent report to the Human Rights Council (A/HRC/28/61), Mr. Knox identified good practices, particularly on climate change. The right to food was most affected by climate change and required concrete action.

A. Contributions of panellists

50. In a video message, the Special Rapporteur on the right to food, Hilal Elver articulated the link between food security and climate change, pointing out that fossil fuels and intensive chemical agricultural practices were unsustainable and contributed to greenhouse gas emissions. She said that, currently, food production exceeded global needs but failed to reach almost a billion chronically hungry people and another billion malnourished people. Climate change threatened to worsen the situation of those afflicted by hunger, including many small holder farmers, fishing communities, indigenous peoples and urban poor. Furthermore, mitigation and adaptation policies, including the production of biofuels and clean development mechanisms, such as the advanced mechanism for reducing emissions from deforestation and forest degradation, could shift land use away from agriculture and threatened the enjoyment of the right to food. Women's and indigenous peoples' knowledge of biodiversity and agroecology must inform mitigation and adaptation strategies. Small-scale farmers should be the cornerstone of any global strategy to address climate change and hunger. The Geneva Pledge offered hope that a rights-based approach to climate change would be included in the outcome of the 2015 Paris Conference of the Parties, but making this a reality would require profound societal change.

51. The Prime Minister of Tuvalu, Enele Sopoaga, expressed how critically important the theme of the panel discussion was to him and to his nation. He echoed the stories and sentiments of Mr. Tong, noting the incredibly serious situation on the ground in Tuvalu. He said that climate change had significant impacts on food security-related to saltwater intrusion, loss of croplands and coral bleaching, among others. But, more fundamentally, it was an issue of basic survival and development. Therefore, it was almost irrelevant to talk about food security when the entire nation and all its people were threatened.

52. Mr. Sopoaga called on the Human Rights Council to employ a human response to the impacts of climate change that considered the need to preserve traditions and livelihoods, protect the economic rights of communities and ward off or mitigate the impacts of displacement. In that regard, sovereign continuity was necessary and would pose complex challenges for the international community as rising sea levels threatened the entire land area of low-lying island States. It was important that the international community take up the work of the Council to address climate change in a broader sphere. Although the global response to climate change would continue to be negotiated under the aegis of the secretariat of the United Nations Framework Convention on Climate Change, the Council offered a critical and complementary perspective, and the linkages between climate change and human rights must be recognized and strengthened.

53. Consequently, Mr. Sopoaga suggested that the Council consider establishing a mechanism to link human rights and the impacts of climate change, and called for the Council to hold a special session to examine the impact of climate change on human rights and identify ways forward to address them. The 2015 Paris Conference of the Parties needed an ambitious agenda. The plight of States like Tuvalu and Kiribati must receive more attention and become a cause of action for the international community. The United Nations was not present on the ground in Tuvalu, where its support was desperately needed. Addressing the human rights impact of climate change was an issue of justice, mandating immediate action.

54. The Administrator of the National Food Authority of the Philippines, Renan Dalisay described the horrendous impact of super typhoon Haiyan on his country. In total, 7,500 people were killed and millions were affected across 14 provinces. The damage caused the loss of billions of dollars and massive production losses for food. There was abundant evidence that climate change affected the intensity and frequency of typhoons and other extreme weather events, which were increasingly regular in the Philippines. These destroyed crops, augmented costs of staple foods and increased reliance upon emergency food relief. Climate change directly affected the enjoyment of the right to adequate food and nutrition. It destroyed land. It took lives and had a disproportionate impact on the poorest and most vulnerable.

55. Mr. Dalisay said that the Government of the Philippines had taken steps to address the growing threat of climate change. Policymakers had enacted laws and put in place a comprehensive set of policies, programmes and institutions to help identify strategies and actions towards mitigation and adaptation. These included the 2009 Climate Change Act, the National Climate Change Action Plan and the Adaptation and Mitigation Initiative in Agriculture. Aligning climate policies with human rights had been central to these efforts and reflected both international and national commitments. Agricultural development was of supreme importance and efforts must be made continuously to protect livelihoods, provide access to food for children, ensure gender equality and respect indigenous perspectives.

56. Mr. Dalisay stated that all were victims of climate change and all must work together to stop it. He called for a serious commitment to address the global threat of climate change and to implement the obligations of States on the basis of historical responsibilities. Recalling the Philippines' experience of solidarity with the international community in the aftermath of typhoon Yolanda, he asserted that States and people must come together again to agree on a lasting solution to save our children and our children's children from the devastation wrought by the terrible consequences of climate change. He called on all to honour the victims of climate change by taking immediate action to protect future generations.

57. The Director of the FAO Geneva Liaison Office, Xiangjun Yao, stated that realizing the right to adequate food is directly and indirectly affected by climate change. She said that more than 800 million people currently suffered from hunger and 2 billion were affected by some form of malnutrition. Substantial production increases would be required to feed growing world populations. Climate change threatened food production and physical access to food. It endangered livelihoods. In a world already afflicted by famine and substantial food price volatility, some States had made progress in the fight against hunger that could inform future efforts. The analysis by FAO of national efforts to achieve the hunger target in the Millennium Development Goals revealed four key areas of intervention: nutrition and education; social protection; equitable access to resources and assets; and awareness-raising. Effective strategies included short-term provision of essential assistance coupled with protection and development of productive assets and infrastructure

that support livelihoods, and the establishment of cross-sectoral links to ensure decent employment and social welfare.

58. Ms. Yao recommended future measures that were adapted to the situation and conditions of those most affected by climate change and developed with the involvement of all stakeholders. Mechanisms that enabled communities to share knowledge and good practices and to participate in decision-making, monitoring and accountability processes should be strengthened. Participants at the recent International Forum on Agriculture and Climate Change discussed climate-smart agriculture that adapted to environmental pressure and had fewer adverse environmental impacts. A multi-stakeholder global alliance on climate-smart agriculture had been established to promote sustainable and equitable increases in agricultural productivity and incomes, build resilience of food systems and farming livelihoods and achieve reductions or removals of greenhouse gas emissions by agriculture.

59. She said that, as it becomes increasingly clear that climate change had adverse impacts on the enjoyment of the right to food, the international community must take action, including by implementing the FAO Right to Food Guidelines, Voluntary Guidelines on the Responsible Governance of Tenure and Principles for Responsible Investment in Agriculture and Food Systems. These tools offer critical human rights-based guidance to help realize the right to food and take climate action. Ms. Yao proposed a strong commitment in the post-2015 development agenda to ensure the empowerment of key actors, especially women and vulnerable groups, who played a crucial role in realizing the right to adequate food.

60. The General Secretary of the World Council of Churches, Olav Fykse Tveit, asserted that climate change was a matter of life or death. It brought home messages from religious traditions worldwide that the world is one creation, that all persons share responsibility for its stewardship and that the actions of the few can impact the basic conditions of life for all. He said that climate change was about universal human rights. The problems highlighted by the panellists were real and climate change was already affecting the enjoyment of all human rights, including the right to food. Many communities were suffering from rising sea levels, salinization of fresh water sources, increased frequency and intensity of tropical storms, changing rainfall patterns, droughts and floods and changing temperatures, which had a direct impact on food security.

61. He said that, in its resolutions, the Human Rights Council had for years highlighted the human rights impacts of climate change and special procedures mandate-holders had reported on climate change in relation to several human rights. The 2010 Social Forum recommended the establishment of a special rapporteur on climate change and human rights who would work to enhance the enjoyment of human rights by those most vulnerable to climate-related hazards. Mr. Tveit reiterated that call, emphasizing that the disproportionate impact of climate change on those most vulnerable and least responsible was an issue of fundamental injustice.

62. Since the scientific consensus on human-induced climate change was clear, the world needed urgent and collective action on behalf of all humanity, including in preparation for the 2015 Paris Conference of the Parties. The World Council of Churches had specifically addressed climate change since the late 1980s, linking it to issues of peace, economic justice and the environment. Climate change had environmental, political, ethical and spiritual dimensions. Therefore, efforts to prevent, mitigate and adapt to climate change and its impacts should be the focus of a broad-based approach rooted in human solidarity. Those who lived in rich countries would need to change their lifestyle patterns. Those in vulnerable countries should have the means to build resilience and adapt. Change must occur at the individual, community, national and international levels. States, the Human Rights Council, civil society and faith-based organizations should cooperate to ensure

justice for those who had contributed the least to climate change. All should show through their actions that they understood their mutual interdependence and were prepared to defend the rights of the most vulnerable. Mr. Tveit advocated for action as an expression of hope for the future, for next generations, for Earth and for humanity.

63. The General Coordinator of La Via Campesina, Elizabeth Mpofu, drew attention to the need to give voice to the voiceless in the discussion of climate change. She said that she represented over 200 million marginalized people, including peasants and fishermen. She demanded that those voices be heard and that the international community take the impacts of climate change more seriously, noting that her speech on behalf of the voiceless and the vulnerable represented by La Via Campesina merited more than a mere five-minute presentation.

64. As a practicing woman farmer from Zimbabwe, she had witnessed first-hand the impacts of climate change on human rights, particularly the rights to life, food, health, housing, education, self-determination, development and water and sanitation. She had seen the abdication of State responsibilities to protect human rights in favour of corporate interests. She said that companies had engaged in unsustainable and indefensible practices, including land-grabbing, excessive exploitation of mineral resources, over-reliance on fossil fuels and destruction of nature and livelihoods. The most vulnerable populations, including indigenous peoples, peasants and women, had suffered the greatest impacts of these actions. Many had been displaced from their lands to make way for corporations.

65. Developed countries that had contributed the most to climate change had imposed a huge burden on developing countries and refused to take responsibility. Faced with the harsh impacts of climate change, many developing countries had been forced to shift financial and human resources from development priorities like health, education and agrarian support to confront the new challenges. In extreme cases, food insecurity caused by drought or floods resulting from climate change had virtually paralysed some developing countries and reversed critical development gains. Meanwhile, developed countries, through their trade and investment negotiations and even their efforts to mitigate climate change through the mechanism to reduce emissions from deforestation and forest degradation, had further perpetuated human rights abuses and land-grabs and prioritized the interests of the few over those of the many. For example, biofuels and export crops had been favoured over locally grown and consumed food. Forests were being taken away from indigenous peoples who relied on them for their livelihoods, shelter, balanced diets and way of life. People were losing their right to self-determination. Ms. Mpofu asked if this was justice.

66. The Permanent Representative in Geneva of FoodFirst Information and Action Network International, Ana-Maria Suarez Franco, argued that the international community must ensure the primacy of human rights across international legal regimes. Human rights must be integrated in the climate change discussion. Climate change was affecting the enjoyment of the right to food and nutrition through several means, including droughts, desertification, tropical diseases and ocean acidification. Persons displaced by climate change impacts may not have access to sufficient, acceptable and healthy food. In its 2007/2008 report on climate change,[1] the United Nations Development Programme estimated that climate change would render an additional 600 million people at risk of experiencing hunger by 2080. It would disproportionately affect peasants, indigenous

[1] United Nations Development Programme, *Human Development Report 2006: Fighting climate change: Human solidarity in a divided world* (Basingstoke, United Kingdom of Great Britain and Northern Ireland, Palgrave Macmillan, 2007).

peoples, pastoralists, small farmers and fishermen, who, paradoxically, had contributed the least to the phenomenon.

67. States must take immediate action to respect, protect and fulfil the right to food and nutrition as required by international law. Climate change was a problem with international origins and impacts; therefore, it would require an international solution. States must recognize their extraterritorial obligations, as enunciated in the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights. They should use their political influence to promote an enabling environment for the enjoyment of the right to food and other rights, including by cooperating to slow climate change and mitigate its impacts. They must act to ensure the accountability of non-State actors for their actions.

68. Ms. Suarez Franco stressed the need to provide children with nutritious food, not just in infancy but also through later years, while simultaneously addressing the structural causes of hunger, including climate change, to ensure the health and nutrition of future generations. She said that ecological production of food would mitigate climate change, boost the earnings of rural residents and increase the availability of food. She called upon States to adopt policies that supported ecological food production by peasants, indigenous peoples, fishermen and pastoralists and to respect their relationship with Mother Nature. Clean development mechanisms must respect human rights, and States must ensure that efforts to address climate change do not negatively affect their enjoyment.

B. Interactive discussion

69. During the plenary discussion, representatives of the following States spoke: Algeria, Bhutan, Bolivia (Plurinational State of), Brazil, China, Cuba, the Democratic Republic of the Congo, Egypt, Fiji, Gabon, Ireland, Maldives, Nigeria, Peru, Portugal, Qatar, Slovenia, South Africa, the Sudan and Uruguay. The European Union, the International Development Law Organization, the International Organization for Migration and UNEP also spoke, as did a representative of the non-governmental organization Action Canada for Population and Development. Delegations called for urgent action to address the impacts of climate change on human rights, especially the right to food. They elaborated on specific threats to food security in their countries, including salinization of arable land and irrigation water. In sharing national efforts to address these threats, delegations highlighted the need for heightened efforts at the international level, including through development assistance, technology transfer, capacity-building and the adoption of a universal, legally binding agreement under the United Nations Framework Convention on Climate Change. The Paris Agreement should integrate human rights, and cooperation between the Human Rights Council, the secretariat of the Convention and their respective constituencies must be enhanced, including through stronger and broader participation of States in the Geneva Pledge.

70. Several delegations supported the common but differentiated responsibilities principle and individual and collective action to promote mitigation and adaptation. Some focused on respect for Mother Earth, a shift to sustainable production and consumption, and realizing the right to development. Delegations stressed the need to protect the rights of women and indigenous peoples and to recognize the contribution of their knowledge to adaptation strategies, enhanced enjoyment of the right to food and promotion of sustainable livelihoods. Delegations called for State commitments to ensure adequate funding for the Green Climate Change Fund for disaster adaptation and mitigation to be fulfilled. They highlighted the importance of integrating human rights in climate policy, including participation, access to information and access to justice. Delegations sought information about good practices in promoting human rights-based approaches to climate policy, particularly relating to the right to food.

C. Responses and concluding remarks

71. During and after the interactive discussion, panellists were given the opportunity to respond to questions and issues raised from the floor and to make concluding remarks.

72. Ms. Suarez Franco referred to the utility of agroecology in reducing emissions, delivering more nutritious foods and providing more income. She called for human rights impact assessments of climate mitigation and corrective measures to promote informed, rights-based decision-making. Policies should ensure that people do not lose their autonomy to feed themselves. Ms. Suarez Franco advocated for a strong, legally binding agreement integrating human rights throughout the entire outcome document of the 2015 Paris Conference of the Parties. She supported the call for a special rapporteur on human rights and climate change to identify good practices, strengthen accountability mechanisms, engage with the secretariat of the United Nations Framework Convention on Climate Change and further explore the links between climate change and human rights.

73. Ms. Mpofu argued that the problems posed by climate change called for new solutions. The corporate world must be regulated to protect human rights. Systems must be changed and processes must become people-oriented. States should support the adoption of a United Nations declaration on the rights of peasants. They should also adopt and implement policies on food sovereignty that comprehensively addressed the human rights impacts of climate change and corporate actors and focused on supporting the most vulnerable, including women. States must ensure their words are followed by actions and act now.

74. Mr. Iveit asserted that we must act now to address climate change, the impacts of which were already a reality and would affect even more our future generations. Actions now would determine whether or not generations to come have access to the most basic elements of life, including food and water. Mr. Iveit called on global leaders to adopt a legal agreement affirming human dignity and promoting human sustainability. Noting that women constituted 43 per cent of the agricultural labour force, Ms. Yao agreed that engaging women in relevant policymaking was critical to food security. She called for intensified research and development into mitigation and adaptation. Investment in the agricultural sector and climate-smart agriculture were important ways forward. Resilient and productive farming practices must be identified and adopted. Ms. Yao advocated for political will and cooperation across sectors to adequately address climate change in Paris and beyond.

75. Mr. Dalisay described efforts in the Philippines to develop hazard maps, improve agricultural support services, reengineer irrigation systems, reinforce infrastructure, establish early warning systems in partnership with communities and promote access to credit for risk reduction measures. He said the Philippines was implementing a gender-sensitive approach to climate and agricultural policy as women and children were the most affected. The call for action by the Presidents of the Philippines and France advocated for a shift from intention to action as the point of no return was being reached. He said that the Philippines President had emphasized the need to transcend paralysis by debates on obligations of individual countries and act together now for the benefit of all.

76. Mr. Sopoaga made a plea for urgent action on climate change to enable small islands and low-lying countries to address and adapt to rising sea levels. He said that States like Tuvalu had a limited domestic capacity to cope with the impacts of climate change and needed international assistance to take appropriate measures. He advocated for improved access to financing and better coordination of international efforts. He called for greater involvement of OHCHR in the Pacific and other severely affected regions, for enhanced collaboration between the Human Rights Council and the secretariat of the United Nations

Framework Convention on Climate Change and for the Council to hold a special session on climate change.

V. Closing session

77. In closing, Ms. Robinson offered brief conclusions and recommendations drawn from the full day of discussions. Depicting climate change as the greatest human rights challenge of the twenty-first century, she noted that panellists and participants had left no doubt as to the terrible reality of its impacts. The international human rights system was focused on the role and accountability of States in realizing the human rights of their people. However, the impacts of climate change exceeded the capacity of many States to protect their people. Members of the Human Rights Council must therefore assume responsibility for safeguarding those whose rights were undermined and destroyed by those impacts.

78. She said that climate justice necessitated urgent action and solidarity. It required States to look beyond their responsibility to their own people and accept responsibility for all those who are particularly vulnerable to climate change, including future generations. Developing countries were making extraordinary efforts to address climate change and increase their resilience. However, they needed the support of the international community to protect the rights of their people and gain equitable access to sustainable development.

79. Ms. Robinson noted that participants had called for a human rights dimension to be included in the outcome of the 2015 Paris Conference of the Parties; improved reporting on human rights and climate change to the Human Rights Council and to the secretariat of the United Nations Framework Convention on Climate Change; the Council to hold a special session on human rights and climate change; the identification and sharing of good practices in human rights informing climate action; the examination of climate change by all special procedures mandate holders, including recommendations to the Council; and the creation of a legal instrument to protect the rights of climate displaced people among other recommendations.

80. She observed that climate change, sustainable development and human rights were interlinked. Therefore, efforts to move towards a more equitable world must address them jointly. Gender equality, access to information and the rights to participation, education, water, food and development should also inform more effective climate policies. All countries should be able to participate in low-carbon, climate-resilient development, and those most responsible for climate change should rapidly reduce their emissions and honour their commitments to provide financial, technological and capacity-building support. The Human Rights Council must act now to ensure people-centred, rights-based action on climate change as both a priority for the Paris Conference of the Parties and a longer-term commitment. Recalling the words of the 2004 Nobel Peace Prize winner, Wangari Maathai, she concluded with a call for humanity to reach a higher moral ground and take immediate action on climate change.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Good practices and major challenges in preventing and eliminating female genital mutilation

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 27/22 on intensifying global efforts and sharing good practices to effectively eliminate female genital mutilation. Following a brief overview of issues related to that practice and the applicable legal framework, the report contains a summary of some of the initiatives undertaken by States, United Nations entities and non-governmental and other organizations to eliminate it, and an analysis of the continued challenges. The report contains a number of conclusions and recommendations, as well as the observations that female genital mutilation in all its forms is prohibited under international human rights law and that States have an obligation to respect, protect and fulfil the right of women and girls to live free from female genital mutilation. The report includes a call on States to, inter alia, adopt and implement legislation that prohibits female genital mutilation, in accordance with international human rights law; develop comprehensive policies to address female genital mutilation, involving all levels of government; promote the education of girls; undertake education and awareness-raising initiatives; challenge the social norms supporting female genital mutilation and delink the practice from religion, social norms, harmful stereotypes and cultural beliefs that perpetuate discrimination against women; harness political leadership to end the practice; and harmonize data collection.

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I. Introduction

1. In its resolution 27/22, the Human Rights Council requested the United Nations High Commissioner for Human Rights to submit to it at its twenty-ninth session a compilation of good practices and major challenges in preventing and eliminating female genital mutilation.

2. The present compilation was prepared in consultation with States, United Nations entities, civil society organizations and other relevant stakeholders. All of the submissions for the report can be found on the website Office of the of the United Nations High Commissioner for Human Rights (OHCHR).[1]

II. Definition and legal framework

3. According to United Nations entities, female genital mutilation includes procedures involving the partial or total removal of the external female genitals or other injury to the female genital organs for non-therapeutic reasons.[2] According to the United Nations Children's Fund (UNICEF), in the 29 countries for which data was available, more than 130 million girls and women had been subjected to the practice. In half of those countries, the majority of procedures had been completed before the girls had reached the age of five. The practice can be found in some countries in Africa, the Middle East and Asia and in some communities in Latin America. It is also present in Europe, Australia and North America among communities originating from countries where female genital mutilation is practised.

4. The underlying reasons for the practice vary across cultures, between and within communities; however, under the cultural, religious and social surface, it becomes clear that they are all rooted in gender-based discrimination and harmful gender stereotypes about the role of women and girls in society. Female genital mutilation appears to be used as a means to control women's sexuality and is linked to other violations based on patriarchy and gendered norms, such as child and forced marriage, marital rape and intimate partner violence. In many communities, it is seen as an important rite of passage into womanhood and indicates a girl's readiness for marriage. Among female refugees and migrants and women with immigrant background, the practice can serve as marker of cultural identity and is often perceived as a source of personal and collective identity.

5. The practice often compromises the natural functions of girls' and women's bodies and has a profoundly detrimental impact on the health of women and girls, including their psychological and sexual and reproductive health. The short-term consequences of female genital mutilation can include death from hemorrhaging and severe pain, trauma and infections that may result from the procedure.3 Long-term consequences can include

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[1] www.ohchr.org/en/issues/women/wrgs/pages/eliminatefemalegenitalmutilations.aspx.

[2] World Health Organization (WHO), Joint United Nations Programme on HIV/AIDS, United Nations Development Programme, Economic Commission for Africa, United Nations Educational, Scientific and Cultural Organization, United Nations Population Fund, Office of the United Nations High Commissioner for Refugees, United Nations Children's Fund and United Nations Entity for Gender Equality and the Empowerment of Women, *Eliminating female genital mutilation: an interagency statement* (Geneva, 2008).

Immediate complications can include severe pain, shock, haemorrhage (bleeding), tetanus or sepsis (bacterial infection), urine retention, open sores in the genital region and injury to nearby genital tissue. Long-term consequence can include recurrent bladder and urinary tract infections, cysts,

chronic pain, infections, decreased sexual enjoyment and psychological consequences, such as post-traumatic stress disorder. The practice is also associated with increased risks of birth by caesarean section, postpartum haemorrhage, episiotomy, extended maternal hospital stay, resuscitation of the infant, low birth weight in infants and inpatient perinatal death.[4]

6. The Committee on the Elimination of Discrimination against Women, the Human Rights Committee, the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights have identified female genital mutilation as practices that directly affect women's and girls' abilities to enjoy their human rights on an equal footing with men, and which therefore violate their rights to non-discrimination and equality. Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the rights of the Child 18 (CEDAW/C/GC/31-CRC/C/GC/18) identifies female genital mutilation as a harmful practice and notes that the harm that these practices cause to the victims often has the purpose or effect of impairing the recognition, enjoyment and exercise of the human rights and fundamental freedoms of women and children.

7. The joint general recommendation/general comment also notes that, overall, harmful practices are often associated with serious forms of violence or are themselves a form of violence against women and children. States have a due diligence obligation to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or occur in private.[5]

8. In her report (E/CN.4/2002/83), the Special Rapporteur on violence against women, its causes and consequences described female genital mutilation as the result of the patriarchal power structures that legitimize the need to control women's lives, arising from the stereotypical perception of women as the principal guardians of sexual morality, but with uncontrolled sexual urges. Both the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have underlined that harmful practices such as female genital mutilation are deeply rooted in societal attitudes that regard women and girls as inferior to men and boys and expressed concerns about the use of these practices to justify gender-based violence as a form of "protection" or control of women and children. In this regard, States are required, under article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, to take all appropriate

infertility, an increased risk of childbirth complications and new-born deaths, and the need for later surgeries. See WHO fact sheet No. 241, on female genital mutilation, available from www.who.int/mediacentre/factsheets/fs241/en/.

[4] J. Abdulcadir, M.L. Rodriguez and L. Say, "Research gaps in the care of women with female genital mutilation: an analysis", *BJOG: an International Journal of Obstetrics and Gynaecology*, vol. 122, issue 3 (February 2015).

[5] The Human Rights Committee, in its general comment No. 31 (CCPR/C/21/Rev.1/Add. 13), obligates States to protect individuals from acts committed by private persons or entities. In its general recommendation No. 19 (see HRI/GEN.1/Rev.6), the Committee on the Elimination of Discrimination against Women sets out the responsibilities of States to exercise due diligence, not only in preventing violations, but also in investigating and punishing such acts. Article 19 of the Convention on the Rights of the Child requires States parties to protect children from physical, sexual and mental violence through legislation and other social and educational measures. That obligation includes protection from acts perpetrated by parents or other caregivers. Article 2 of the Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104) explicitly defines female genital mutilation as a form of violence against women and calls upon States to protect women against any form of violence that occurs within the family, household or in other environments. The Declaration urges States to condemn violence against women and to refrain from invoking tradition or religion to evade their obligations under international human rights law.

measures to modify social and cultural patterns of conduct, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

9. The above-mentioned joint general recommendation/general comment also notes that sex and gender-based discrimination intersect with other factors that affect women and girls, in particular those who belong to or are perceived as belonging to disadvantaged groups and who are therefore at a higher risk of becoming victims of harmful practices.

10. Human rights mechanisms have indicated that female genital mutilation may amount to torture and cruel, inhuman or degrading treatment or punishment, as set forth in articles 1 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[4] and violates the right to life when it results in death.

11. The practice also violates the right to health.[5] The Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Human Rights Committee have all expressed concern about the medicalization[6] of female genital mutilation and have urged States not to limit criminalization of the practice only to those who perform the practice outside of hospitals and without medical qualifications. The Committee on the Elimination of Discrimination against Women has raised concerns about the conflation and description of the practice as female circumcision. There are fundamental differences both in the harmful effect, intent, purpose and consequences associated with female genital mutilation and "circumcision" performed on boys and men. For example, female genital mutilation is often used to primarily control women's and girls' sexual desires, while male circumcision does not have this intent or result.

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[4] In its general comment 2 (CAT/C/GC/2), the Committee against Torture explained that States have an obligations regarding the prohibition of torture and other ill-treatment to address the activities, such as female genital mutilation, of private persons or entities. The Committee noted that female genital mutilation violates the physical integrity and human dignity of women and girls and has called on Governments to enact legislation prohibiting the practice, to punish perpetrators and to adopt necessary measures to eradicate it (see, for example, CAT/C/CR/31/6, CAT/C/KEN/CO/1, CAT/C/TGO/CO/1, CAT/C/TCD/CO/1and CAT/C/MRT/CO/1). In his 2008 report (A/HRC/7/3), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recognized that, like torture, female genital mutilation involved the deliberate infliction of severe pain and suffering, and considered that it constituted a violation falling within his mandate.

[5] According to article 24, paragraph 3, of the Convention on the Rights of the Child, States are obliged to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

[6] Medicalization refers to any act of female genital mutilation that is condoned by a State and performed in both public and private hospitals by trained medical personnel. This includes the performance of excisions by health workers and the use of modern medication to relieve pain and fight infection. Trained health professionals who perform female genital mutilation violate the human rights of women and girls. They also violate the fundamental medical ethic to do no harm. See WHO and others, *Eliminating female genital mutilation: an interagency statement*. In his 2008 report (A/HRC/7/3), the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment made it clear that, even if a law authorizes the practice, any act of female genital mutilation would amount to torture and the existence of the law by itself would constitute consent or acquiescence by the State. Also, in cases where acts of female genital mutilation are performed in private clinics and the physicians who carry out the procedure are not prosecuted, the State de facto consents to the practice and is therefore accountable. Art. 5 (b) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) prohibits, through legislative measures backed by sanctions, all forms of female genital mutilation, scarification, medicalization and para-medicalization of female genital mutilation and all other practices, in order to eradicate them.

III. Good practices to eliminate female genital mutilation

A. Legislative measures

12. At the time of writing, more than 40 countries have enacted legislation against female genital mutilation. In Mauritania, ordinance 2005-2015 prohibits medical practitioners and government health facilities from carrying out the procedure. Egypt and Kenya prohibit parents and guardians from pressurizing their children to undergo the practice. Ugandan and Kenyan laws on female genital mutilation make its performance and the discrimination against a woman who has not undergone the practice a crime. In Nigeria, while there is no federal law prohibiting the practice, states can enact specific legislation prohibiting the practice, as several already have.

13. Research by the Demographic and Health Surveys Programme (http://dhsprogram.com) indicates significant reductions in prevalence where States have enacted and enforced comprehensive criminal sanctions against female genital mutilation. In Kenya, where the prevalence rate has fallen from more than 50 per cent of girls in 1980 to 20 per cent in 2010, 71 cases related to the practice have gone to court and 16 of these cases have resulted in convictions. Burkina Faso has witnessed a reduction in the practice among young women and has recorded at least seven convictions for practising or abetting female genital mutilation. In 2014, two public mobile tribunal hearings in two separate provinces involving the mutilation of 14 girls resulted in six-month sentences for the perpetrators. Eritrea has convicted and fined at least 155 female genital mutilation practitioners, as well as parents of girls who underwent the practice, while Ethiopia has undertaken 13 prosecutions and, in Guinea-Bissau, at least 14 cases have gone to court and one perpetrator has been sentenced since 2012. In Uganda, following the adoption of the Female Genital Mutilations Act in 2010, 15 cases were brought before courts and, in November 2014, five people were convicted for performing the practice. Since 1983, when it introduced a special act prohibiting female genital mutilation, France has jailed about 100 persons for involvement in the practice. French police claims that the number of mutilations has decreased as a result of the trials and other prevention initiatives.[9] On 26 January 2015, in the first case since the adoption of a 2008 law against female genital mutilation, a court in Egypt convicted a medical doctor following the death of a 13-year-old girl after he had performed the practice on her in a private clinic.

14. Cross-border female genital mutilation is increasingly documented, partly owing to the criminalization of the practice and to strict enforcement of legislation prohibiting it in countries with large practicing communities. In accordance with article 44, paragraph 3, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, States parties must ensure that the practice is punishable if committed in a third country by or against one of their nationals or residents, even if the practice is not considered a criminal offence in that country. Similarly, States parties must take the measures necessary to establish jurisdiction over a female genital mutilation offence when an alleged perpetrator is present on their territory. This principle of extraterritoriality has been introduced into many European laws. Sections 1 and 4 of the Female Genital Mutilation Act (2003) of the United Kingdom of Great Britain and Northern Ireland make it a criminal offence for any person, regardless of their nationality or residence status, to carry out or be involved in carrying out female genital mutilation. In 2006, Italy introduced a specific criminal law provision on the practice (Law No. 7/2006),

[9] European Institute for Gender Equality, *Good practices in combating female genital mutilation* (Luxembourg, 2013).

making it punishable even if it is committed outside the country. Denmark, Norway, Spain, Sweden and Switzerland have criminalized practicing or assisting or abetting the practice of female genital mutilation, both inside and outside the countries. In 2011, Kenya added an extraterritoriality clause in its law, making performing female genital mutilation outside its border a criminal offence for Kenyans. In 2012, Ireland adopted the Criminal Justice (Female Genital Mutilation) Act, which prohibits the practice of or attempts to practice female genital mutilation.

15. In addition to enforcing legislation and policies on female genital mutilation, some countries have also established mechanisms to monitor progress in elimination efforts and have allocated resources for implementation, including equipping relevant officials with the requisite personnel, financial, technical and other resources. For instance, Kenya's law prohibiting the practice mandates the establishment of an anti-female genital mutilation board, which has both an operational and advisory role, including for securing adequate resources for combatting female genital mutilations.

16. Enforcement of national legislation should include special considerations for victim and witness confidentiality and the provision of services, including protection for parents and girls who reject the practice. As the perpetrators of female genital mutilation tend to be family members, victims are often unwilling to support prosecution, and in some instances may refuse to provide police investigations with a statement. Family pressure to accept the practice can be immense; there are documented cases of threats to parents who have refused that their daughters undergo the practice and also of girls who claimed to have mutilated themselves in order to protect their parents. A number of countries have addressed witness and victim protection needs in their legislation on the practice. For instance, United Kingdom legislation grants automatic anonymity to victims of the practice who report the incident to the police.

B. Comprehensive action plans

17. In addition to legislation, the elimination of female genital mutilation requires complex multisectoral strategies involving all sectors of government and the wider public, including the media, civil society groups, community leaders, medical professionals and teachers. It also requires addressing and engaging with beliefs and social attitudes and norms within the communities where it is practised.

18. The following States have implemented comprehensive and coordinated action plans against female genital mutilation:

- Burkina Faso's action plan establishes an intersectoral group comprising 13 ministries, as well as women's groups, religious and community leaders, law enforcement officials and the judiciary, to oversee the implementation of its law on the practice
- In 2013, the Ethiopian Ministry of Women, Children and Youth Affairs launched a two-year national strategy on harmful traditional practices that involves the health and social care sectors; in addition, the Government, with the assistance of United Nations agencies and non-governmental organizations, has designed child protection networks
- Senegal's national action plan for the period 2010–2015 involves the creation of regional committees, departmental and rural communities for the abandonment of female genital mutilation; as a result of this multi-dimensional approach, thousands of villages in Senegal have reportedly publicly abandoned the practice and other harmful practices

- Cameroon's national action plan, in partnership with civil society such as the Council of Imams and Muslim Dignitaries of Cameroon includes support for the socioeconomic reconversion of practitioners.

- Egypt, Cameroon, the Gambia, Guinea, Guinea-Bissau, Mali and the United Republic of Tanzania have developed multisectoral strategic action plans that involve different government institutions and emphasize awareness-raising, while, in 2004, Mauritania adopted a five-year national action plan against gender-based violence and the Government has pledged to adopt in 2015 a law against gender-based violence, including female genital mutilation.

C. Education and awareness-raising

19. According to the United Nations Population Fund (UNFPA) and UNICEF Joint Programme on Female Genital Mutilation/Cutting: Accelerating Change,[10] comprehensive formal, non-formal and informal education linked with awareness-raising programmes can contribute greatly to preventing female genital mutilation.

20. Evidence shows that the incidence of harmful practices such as female genital mutilation decreases with gains in female literacy. A survey by UNICEF in Egypt found that 72 per cent of women with no education wanted the practice to continue compared with 44 per cent of women with higher levels of education. Furthermore, 15 per cent of women with no education wanted to abandon the practice, compared with 47 per cent of women with higher education.[11] In another survey conducted by the organization Human Rights Watch in Yemen, mothers who had no education or only primary school education were more likely to subject their daughters to the practice, and mothers with more children were more likely to have at least one daughter undergo the practice.[12]

21. A number of civil society organizations provide scholarships for girls to enable them to remain in school as a means of preventing female genital mutilation. In the United Republic of Tanzania, for instance, the Maasai Women Development Organization has given scholarships to enable girls who otherwise would have been mutilated and forced into marriage to remain in school.[13] The Pastoralist Child Foundation is working in Samburu and Maasai Mara, Kenya, to eliminate the practice through educational sponsorships for girls.[14] In 2014, the county of Pokot in Kenya committed to spending over $1 million on eliminating female genital mutilation, with much of the funding to be used to provide scholarships for girls.[15]

22. Information and awareness-raising on the harmful impact of female genital mutilation and its legal prohibition are critical to eliminating the practice. The abovementioned UNFPA-UNICEF Joint Programme supports community-based educational dialogues in 17 countries. The dialogues are often led by a community health worker and involve sharing information on human rights, health and gender norms. Under the programme, workshops on the harmful impact of the practice were held in Mauritania

[10] Available from www.unfpa.org/publications/unfpa-unicef-joint-programme-female-genital-mutilationcutting-accelerating-change.

[11] http://www.unicef.org/egypt/Eng_FGMC.pdf, accessed on 17 February 2015.

[12] Human Rights Watch submission.

[13] See www.unwomen.org/en/news/stories/2012/11/escaping-the-scourge-of-female-genital-mutilation-in-tanzania-a-maasai-girls-school-provides-schol#sthash.oo0jgOpB2.dpuf.

[14] See www.indiegogo.com/projects/girls-education-community-education-in-samburu-and-maasai-mara-kenya.

[15] Equality Now submission.

and assistance provided for the development of a road map to strengthen the ability of the Ministry of Endowment of Yemen to encourage public leaders, including religious leaders, to oppose it.

23. The organization Equality Now offers support to the Government of Kenya to translate the Prohibition of Female Genital Mutilation Act into a language that can be understood by the public, and is supporting its translation into Kiswahili to expand its reach among the populations in areas where the practice is prevalent. It has also issued 1,000 copies of the Act to Kenyan primary school head teachers to encourage teachers to play a role in ending the practice.

24. Examples of programmes that work with young people, including on outreach programmes in schools and the wider community, were highlighted. For instance, Senegal has introduced "Tostan", a participatory education programme that works at the village level to incorporate literacy and essential health education, including information about female genital mutilation, into the learning experiences of the entire community. Senegal has also incorporated prevention of the practice into elementary and junior high schools curricula. In Burkina Faso, the National Committee has piloted training for teachers and incorporated female genital mutilation into the natural sciences curriculum within schools.

25. In 2014, a youth summit in the Gambia brought together 100 Gambians aged 17–25 years to build their campaigning and social media skills and equip them with the legal and medical knowledge to raise awareness on the practice among young people. In Djibouti, the UNFPA-UNICEF Joint Programme assisted in mobilizing 500 young people to become engaged in the global campaign to end female genital mutilation and 30 young girls were trained to become youth peer educators for the abandonment of the practice in their respective communities.

26. The Ministry of Health of Egypt and the national council for childhood and motherhood hold regular workshops on female genital mutilation and open days in youth centres across the country to raise awareness on the harmful impact of the practice. In eastern Ethiopia, the Office of the United Nations High Commissioner for Refugees (UNHCR) in partnership with a community-based non-governmental organization, the Mother and Child Development Organization, conducted awareness-raising campaigns and weekly group discussions, referred to as "coffee ceremonies", and mobilized youth clubs against the practice in three Somali refugee camps.

27. From 1998 to 2006, the female genital mutilation prevalence rate in the Niger was halved as a result of the work of civil society groups, in particular the Nigerien committee on traditional practices, which carried out studies, awareness-raising interventions, training, advocacy and retraining for practitioners, to stimulate behavioural change in concerned communities. It also assisted in setting up monitoring committees to track activities in remote villages.

28. In Mauritania, the UNFPA-UNICEF Joint Programme collaborated with the National Theatre and organized a sensitization tour on female genital mutilation in five high-prevalence regions of the country. A large number of other sensitization activities were also carried out in collaboration with partner non-governmental organizations. Following the tours, 76,850 people made public declarations against the practice.

D. Engaging religious and community leaders

29. In Ethiopia, the Ethiopian Orthodox Church, the Evangelical Church and the Ethiopian Islamic Supreme Council officially and formally stressed that female genital mutilation is not a religious requirement, and originates in practices that precede religion. They also pledged to integrate relevant messages into their religious teachings.

30. In 2013, the OHCHR office in Guinea Bissau supported and provided technical assistance to the national non-governmental organization Djinopi in the organization of an Islamic conference on combating female genital mutilation, involving Islamic professors from Egypt, Mali and Senegal. The conference resulted in a declaration on the abandonment of the practice by the imams of Guinea Bissau. To reinforce the outcome of the conference and the declaration, Djinopi published a "golden booklet" with short Islamic statements against female genital mutilation, which has been disseminated to neighbouring countries and countries with high prevalence rates.

31. In Mauritania, dialogues with religious leaders have led to the development of a model sermon and a collection of arguments against female genital mutilation based on religious documents, which was launched in February 2013 and distributed to 500 imams.

E. Other initiatives to address societal attitudes and support for female genital mutilation

32. In 2008, the Government of Colombia, with technical assistance from the International Organization for Migration and UNFPA, initiated a project called "Embera Weta" aimed at changing discriminatory social and cultural patterns of violence against women. The project resulted in a public rejection by Emberá women and community leaders of female genital mutilation as harmful to women and having no basis in culture. The project has enabled women, both in Emberá and among other indigenous communities, to be agents of change.

33. The involvement of older women who may themselves have undergone female genital mutilation in programmes to eliminate the practice has proved successful. German development cooperation has created intergenerational dialogues designed to empower target groups to change behaviour. The dialogues have been used in several countries.

34. In Mali, the "child-to-child and "child-to-parents" approach adopted by the organization Plan International has allowed girls to promote their rights with their parents and communities, through acting, drawing, poetry and songs. The "child-to-child" approach recognizes children as effective agents of change, since they communicate more effectively than adults, are often more literate than their parents and look after younger siblings. This has helped many girls to express themselves in public and share their experiences without fear and embarrassment.[14]

35. As fathers, brothers, husbands, community and religious leaders and politicians, men hold many of the decision-making roles that allow the practice to continue and can play a role in ending female genital mutilation and other harmful practices. Challenging dominant norms of masculinity is an important step towards ensuring that men and boys are strong advocates for tackling the practice and for changing attitudes and behaviours in communities and society at large. In Egypt, Plan International has used an innovative non-formal education programme called "New Visions" that encourages the development of life skills and increases gender sensitivity and reproductive health knowledge among groups of boys and young men aged 12–20. The same concept has been used for girls through a similar programme called "New Horizons", to increase self-confidence and demystify and communicate essential information on basic life skills and reproductive health. These groups have helped to break the silence, promote attitudinal and behavioural changes among men and women, as well as reduce the social pressure that gives rise to the practice.

[14] See http://plan-international.org/about-plan/resources/blogs/fighting-fgm-progress-hidden-behind-numbers-in-reports.

Plan International has found that community dialogue and discussion is crucial for greater ownership of the project by the community.[17]

36. UNHCR has established an advocacy group called "Men against female genital mutilation" comprising 300 men in the Dadaab refugee camp in Kenya. The group members undertake peer education activities, acts as role models and work in close cooperation with the police and other agencies.

37. In the Sudan, and later in Somalia and Egypt, the "Saleema" initiative promoted the association of positive values with women who have not undergone female genital mutilation. Saleema is an Arabic word that means, inter alia, "unharmed". One of the key objectives of the initiative was to model and popularize the use of the world Saleema itself as a positive terminology for describing women and girls who have not undergone the practice. In 2014 alone, over 340 communities in the Sudan participated in community dialogue activities as part of the Saleema initiative, and approximately 95 communities organized public declarations for the abolishment of the practice using the initiative "Saleema Al Taga".

F. Political leadership

38. The Inter-African Committee on Traditional Practices Affecting the Health of Women and Children has identified political will as "the centre of achieving zero tolerance to female genital mutilation." Evidence shows that statements by politicians condemning female genital mutilation are essential to challenging support for the practice and that, in many countries, they have led to greater engagement of religious, tribal and community leaders against it, as well as an increase in human and financial resources allocated for this purpose.[18] Throughout 2014 Guinea-Bissau saw strong statements of support for the abandonment of the practice by political parties, the Government and influential leaders. In addition, the country has appointed a national ambassador for the abandonment of female genital mutilation, and has mobilized key national musicians and media figures to participate in cultural events to advocate for its abandonment. Senegal's national action plan provides for an active role for parliamentarians, in particular female parliamentarians, in terms of speaking out against the practice in their constituencies and working with religious leaders.

G. Promoting alternative rites of passage

39. Women who undergo female genital mutilation have reported feelings of empowerment and social acceptance and those who have refused report feelings of exclusion, shame, stigmatization and loss of honour and social position.[19] Alternative rites of passage are important to address these feelings and perceptions.

40. In Kenya, the UNFPA-UNICEF Joint Programme supported alternative rites of passage among practicing communities, who viewed the new practice as culturally acceptable and marking a girl's entry into adulthood. The alternative rites of passage involved community participatory education on local culture, life skills, communication

[17] Plan International submission. See http://plan-international.org/where-we-work/africa/egypt/what-we-do/reduction-of-harmful-traditional-practices-htp

[18] United Nations Population Fund (UNFPA), "Implementation of the International and Regional Human Rights Framework for the Elimination of Female Genital Mutilation" (New York, 2014). Available from www.unfpa.org/sites/default/files/pub-pdf/FGMC-humanrights.pdf.

[19] Human Rights Watch submission.

skills, self-awareness, family relationships, sexuality, coping with adolescence, sexually transmitted infections, HIV/AIDS and gender-based violence. The Young Women's Christian Association of Kenya implements an alternative rites of passage seminar for girls at risk. Teachers and parents identify girls, who are taught a series of modules based on a training manual covering sexual and reproductive health education, female genital mutilation awareness, myths around the practice, legal implications and children's rights and protection from it.

41. In the United Republic of Tanzania, OHCHR supported a UNFPA-led special event where over 1,000 children chose an alternative rite of passage over mutilation. The alternative rite of passage involved a one-month training course on human rights, reproductive health and the culture of their local community, which concluded with a graduation ceremony. Similar alternative rites of passage activities have been conducted in the Gambia.

H. Cross-border, regional and international cooperation initiatives

42. Efforts at the regional and international levels aim at promoting awareness and information-sharing on female genital mutilation. Countries of origin and migrant communities in destination countries are increasingly forming partnerships and engaging in coordinated approaches to prevent the practice.

43. Togo is currently developing cross-border programmes to combat female genital mutilation with neighbouring countries. Similarly, since 2011, Burkina Faso and Mali have collaborated in a joint project on preventing its cross-border practise.

I. Protection and support services

44. Girls and women who have undergone female genital mutilation need quality health care and psychosocial and sexual care. Eritrea, Mauritania, Kenya, Burkina Faso, Ethiopia, Mali, Somalia and Uganda have all strengthened the capacity of health personnel to address the practice and its consequences. In Ethiopia, health workers are operating outside the clinical setting and offering support to schools, women's groups and faith networks.

45. In Finland, the National Institute of Health and Welfare raises awareness and provides information on female genital mutilation in maternity and child health clinics, hospitals and health centres; and schools and student health centres. In September 2014, University College Hospital in London opened its first specialist clinic for child victims of female genital mutilation, offering medical treatment and psychological help to girls up to 18 years of age who have suffered or may be at risk of the practice. Somalia has integrated female genital mutilation-related issues in its midwifery training curriculum in its South Central, Puntland and Somaliland regions, including in antenatal care, neonatal care and immunization services. Similarly, Burkina Faso has integrated the practice into reproductive health programmes and set up a specialist clinic to address the complications of female genital mutilation.

46. The World Health Organization is updating clinical guidelines for health providers to support evidence-based care. In Ethiopia, the Addis Ababa Fistula Hospital is dedicated exclusively to providing free obstetric fistula repair surgery to women, and a community called Desda Mender is dedicated to the lifelong support of women whose fistulae are irreparable.[28] Specialized clinics for victims of female genital mutilation have also been

[28] Project Hannah Africa submission.

opened in Germany. In Switzerland, the University Hospital of Geneva operates specialized consultations led by female doctors on female genital mutilation. The programme offers various services, including a personalized prevention information review and deinfibulation for cases of type III female genital mutilation.

47. In addition to health services, several civil society organizations are engaged in providing protection services to girls at risk. In Kenya, the Tasaru Ntomonok Initiative provides shelter for girls trying to escape female genital mutilation, including with a view to ensuring they remain in school and supporting their integration into their communities.[71] Burkina Faso has established a free child line for the public to report suspected cases and for survivors or other affected parties to receive counselling. In Ethiopia, child protection networks provide support to girls who have been mutilated and have established links between child protection officers, the police, schools, community groups and faith organizations to share information to identify proactively those girls at risk of the practice.

J. Addressing female genital mutilation in minority communities

48. Specific issues may arise in addressing female genital mutilation when it is practised only by minority communities, such as refugee women and women migrants. Measures to address the practice in this context have focused on legislation, strengthening the capacity of the relevant professionals to effectively address the practice through training and guidelines, as well as awareness-raising among targeted communities.

49. In addition to information campaigns, a growing number of countries have developed action plans that contain practical guidance on targeted interventions, including on how front-line professionals can challenge the social norms that drive the practice, as well as how individuals and communities can themselves contribute to changing the social norms that underpin the practice. Finland's action plan on the prevention of female genital mutilation for the period 2012–2014 requires local authorities to provide sufficient training on the practice for employees and to carry out self-monitoring.

50. Since 2000, Norway has implemented four successive action plans to prevent and combat female genital mutilation. The current action plan for the period 2013–2016 against forced marriage, female genital mutilation and severe restrictions on young people's freedom contains 22 measures, including on the roles of schools and the foreign service missions, the need for safe housing and improved cooperation and expertise in the public sector.

51. Similarly, in Portugal, the Government has implemented two action plans involving actors from several sectors and with different expertise, so as to address the different perspectives on female genital mutilation, including health, reproductive and sexual rights, justice, immigration, gender equality, development cooperation and education. Members of the group come from public administration bodies, international organizations and non-governmental organizations. The Government produced various materials on the practice for health-care professionals, patients and police officers, as well as a post-graduate course on female genital mutilation for health-care professionals who intend to work in high prevalence areas and who are expected to act as focal points in their community's health centres and hospitals upon graduation. Under the action plan, Portugal has created a biannual award, entitled "Against female genital mutilation – change the future, now", which offers immigrant associations support to develop awareness and prevention projects

[71] Equality Now submission.

about the practice in the communities at risk, especially those associations that are very effective in their communities but do not have access to national or European Union funds.

52. In an attempt to reach out to affected communities, the Danish Ministry of Children, Gender Equality, Integration and Social Affairs has developed a mobile application on how to tackle "honour-related" conflicts, including in relation to female genital mutilation. The application targets ethnic minority young people, as well as professionals, informing them that the practice is illegal, and that persons conducting or contributing to it (also outside of Denmark) risk prison sentences.

53. In March 2014, the United Kingdom adopted a national action plan based on a multi-agency approach to providing support and care services for women and girls living with female genital mutilation or for women and girls at risk of the practice. It also established a female genital mutilation unit to coordinate cross-government policy, to collect and disseminate best practices and to provide outreach support on the practice. It published multi-agency guidelines on female genital mutilation to support and assist front-line professionals, such as teachers, health professionals, police officers and social workers. In April 2014, it became mandatory for any health-care professional to collate and submit basic anonymized details about the number of patients treated who have undergone the practice.

54. The Government of Spain has created a national strategy to eradicate violence against women for the period 2013–2016, which describes female genital mutilation as a form of violence against women, and has developed a protocol on medical action against the practice.

55. In 2011, the Government of the Netherlands developed an official document to help parents withstand pressure from their families. The document, entitled "Statement opposing female circumcision", outlines the health consequences of female genital mutilation and relevant Dutch legislation. It has been translated into several languages and is handed out to parents who attend children's health-care centres and also to school doctors.

56. In March 2013, partner organizations of the European End Female Genital Mutilation campaign – including the Mediterranean Institute of Gender Studies, the Family Planning Association of Portugal, the Italian Association for Women in Development and AkiDwa of Ireland – launched an e-learning tool, offering information and practical advice on female genital mutilation in Europe. The campaign's e-learning course aims to raise awareness and enhance the skills of health professionals and asylum officers and social welfare officers. The training is supported and endorsed by UNHCR and is available in English, Portuguese and Italian.

57. A number of countries, including Germany, Japan, Norway, Sweden and the United Kingdom, have implemented cross-country programmes to address female genital mutilation. In 2010, the European Parliament launched a campaign against the practice, and in 2014 the Council of Europe, with Amnesty International, produced a guide for member States on how to design policies and measures to better address the practice, based on the Council of Europe Convention on preventing and combating violence against women and domestic violence.

IV. Challenges in addressing female genital mutilation

58. Submissions received reveal a number of constraints and challenges that States face in their efforts to meet their obligations to respect, protect and fulfil the rights of women and children to live free from female genital mutilation.

59. Legislation in most countries provides for large fines and prison sentences for those who engage in the practice. However, effective enforcement is often inadequate, particularly in States with plural legal systems and even more so where customary, traditional or religious norms may appear to support female genital mutilation. Furthermore, prosecutions remain rare. This is partly due to the nature of the practice, which poses particular investigation challenges to law enforcement officials. The ceremony is often deeply taboo, usually performed in the privacy of the family or community and shrouded in secrecy. It is also not immediately obvious that a woman or a girl has been subjected to female genital mutilation, and law enforcement officials often lack accessibility to rural areas where it is carried out. In a number of places, the enforcement of laws against female genital mutilation and the punitive legal approach has driven the practice underground.

60. There is also a gap in the protection afforded by existing legal frameworks. Most States have criminalized female genital mutilation when it takes place on national territory or when a girl is taken abroad for mutilation if she is a citizen or permanent resident of the State. This fails to recognize the obligation of States to protect all children within their jurisdiction and does not take into consideration the mobile, transnational character of practicing communities. A further challenge is insufficient collaboration among Governments across borders. Girls living near border areas are most vulnerable, particularly if they are living next to countries with weaker legislation against the practice than their own.

61. There is evidence that the medicalization of female genital mutilation has risen. However, reliable data on medicalization is difficult to obtain. Allowing medical professionals to perform the practice is often the logical response of parents who are under social pressure to have their daughter undergo female genital mutilation, but who want to minimize harm. Medicalization can also act as an additional source of income for health-care workers and can undermine efforts to eliminate the practice.[22]

62. United Nations and regional human rights mechanisms have raised concerns with regard to genital surgeries on intersex infants and children for non-medical reasons.[23] The Committee on the Rights of the Child has called upon States to ensure that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, to guarantee bodily integrity, autonomy and self-determination to children concerned and to provide families with intersex children with adequate counselling and support.[24]

63. The collection of reliable data on female genital mutilation in countries where minority communities perform the practice remains a major challenge, as do the lack of capacity of relevant officials and the absence of standard guidelines. Many front-line professionals, such as teachers, medical professionals and child protection officers, are not trained in or may not understand the law, or may be unfamiliar with the issue and fail to record cases. Similarly, while there is empirical evidence showing that female genital mutilation can result in deaths, many Governments do not collect or maintain official data on deaths associated with the practice, and hospitals do not have policies of recording female genital mutilation-related deaths.

[22] Plan International, "Tradition and rights: female genital cutting in West Africa", 2005. Available from www.plan-uk.org/resources/documents/27624.

[23] See, inter alia, CRC/C/CHE/CO/2-4, CAT/C/DEU/CO/5, A/HRC/22/53 and A/64/272. See also the statement by the Council of Europe Commissioner for Human Rights, available from http://on-usa.org/1720/council-of-europes-statement-on-intersex-peoples-need-for-equal-rights.

[24] See CRC/C/OPSC/CHE/CO/1.

64. Despite the commitment of Governments to address the practice, in many instances support in the form of shelters and other services for victims and girls at risk are inadequate. Very few countries make provisions in law or policy to offer protection following allegations of female genital mutilation. The practice does not fit easily into systems to prevent violence against women or child protection systems. For instance, in several European countries, agencies that typically report on suspected child abuse cases do not report female genital mutilation as they are often unaware of its occurrence. Furthermore, most domestic violence shelters do not accommodate children, constraining many girls to take refuge in schools or in the home of community leaders, at times with limited access to food or sanitation and exposure to further risks.

65. In the area of service provision, a key challenge is the lack of evidence on effective interventions and strategies to mitigate the health consequences of female genital mutilation. This includes a need to improve the knowledge base about obstetrical and gynaecological consequences.[14]

66. The persistence of social norms that perpetuate female genital mutilation, differences in the underlying reasons for the practice and cultural environments where it takes place make it particularly challenging to eliminate the practice. However, the positive results of programmes to prevent female genital mutilation demonstrate that attitudes in support of the practice can be successfully addressed.

V. Conclusions and recommendations

67. **States have the obligation to respect, protect and fulfil the right of women and girls to live free from female genital mutilation. Good practices in a number of countries should be supported, increased in scale and replicated. They include:**

(a) The establishment of comprehensive policies, such as action plans, involving all relevant ministries and other stakeholders, including religious and community leaders, teachers, health providers and the media;

(b) The adoption and implementation of legislation that prohibits female genital mutilation, in accordance with international human rights laws;

(c) Comprehensive education and awareness-raising programmes targeting women and men at all levels of society, including religious and community leaders, on the harm and root causes of female genital mutilation and responses;

(d) Campaigns to change societal norms that drive the practice, and the creation of an enabling and supportive environment for the human rights of women;

(e) Campaigns that delink the practice from religion, and the debunking of social norms, harmful stereotypes and cultural beliefs that perpetuate discrimination on the basis of sex, gender, age and other intersecting factors;

(f) The incorporation of guidelines on female genital mutilation into medical education and training curricula;

[14] WHO has identified four thematic areas where research is needed to improve clinical management on the basis of significant gaps in the evidence and controversy regarding optimal management: (a) obstetric outcome and post-partum perineal re-education; (b) defibulation outside of pregnancy or labour; (c) clitoral reconstruction; and (d) training, skills and confidence of health care providers. See I. Abdulcadir, M.I. Rodriguez and I. Say, "Research gaps" (see para. 5, footnote 4).

(g) Measures to ensure girls' access to high-quality education, including comprehensive sexuality education;

(h) Accessible protection mechanisms and services to safeguard girls at risk, including services such as emergency help lines, health care, legal services, counselling and shelter for girls who run away in order to avoid female genital mutilation;

(i) Adequate social and medical services for women and girls and women who are living with female genital mutilation.

68. States should strengthen efforts to share experiences and good practices, including concerning data-collection tools, methodologies and expertise. Furthermore, States should take the necessary measures to ensure the coherent and consistent harmonization of all relevant legislation and to ensure its primacy over customary, traditional or religious law.

69. States should incorporate evidence-based training on female genital mutilation into medical, midwifery and nursing curricula so as to improve the diagnosis and management of the practice and to prevent its medicalization.

70. States should allocate sufficient resources to civil society groups and other partners so as to effectively carry out programmes at the community level to eliminate the practice. This should include the creation of safe spaces in schools and communities where girls and young women can gather and discuss the issues that affect them.

71. States should ensure that adequate safeguards are in place to prevent cross-border female genital mutilation. States should also make it a criminal offense to perform of or be involved in carrying out the practice abroad, regardless of the nationality or residence status of the perpetrator and even where the victim is not a national or does not have permanent or similar habitual residence of the country, in accordance with the Convention on the Right of the Child.

72. Political leadership is crucial to address female genital mutilation. Political, religious and community leaders play an important role in speaking out against the practice.

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Universal periodic review

Report of the Office of the United Nations High Commissioner for Human Rights on the operations of the Voluntary Fund for Participation in the Universal Periodic Review*

* Late submission

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I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 16/22 and decision 17/119, in which the Council requested the secretariat to provide an annual written update on the operations of the Voluntary Fund for Participation in the Universal Periodic Review and on the resources available to it. As indicated in the previous update report (A/HRC/25/36), in an effort to consolidate information related to the universal periodic review, and on the basis of Council decision 17/119, the secretariat is aligning the timing of submission of the reports on the activities supported through the two universal periodic review trust funds, namely, the Voluntary Fund for Participation and the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review. As such, as of 2015, both annual reports are expected to be submitted to the June session of the Council. The present report provides an overview of contributions and expenditures as at 31 December 2014, together with a description of activities funded since the previous update.

II. Financial situation of the Fund

2. Table 1 shows the detailed financial situation of the Fund as at 31 December 2014 (statement of income and expenditure).

Table 1
Statement of income and expenditure for the period 1 January–31 December 2014
(United States dollars)

Income	
Voluntary contributions received from Governments in 2014	
Singapore	10 000.00
Miscellaneous and interest income	14 123.33
Total income	**24 123.33**
Expenditure[a]	
Staff costs	—
Fees and travel of experts and consultants	—
Travel of staff	57 004.91
Travel of representatives	217 584.59
Contractual services	—
General operating expenses	—
Supplies and materials	—
Grants, contributions and seminars	23 078.00
Programme support costs	39 906.03
Total expenditure	**346 875.53**
Net excess (shortfall) of income over expenditures for the period	**-322 752.20**
Opening balance on 1 January 2014	**2 176 173.26**
Miscellaneous adjustments/savings/refunds to donors	**-1 222.84**
Total fund balance as at 31 December 2014	**1 857 796.93**

[a] Includes disbursements and obligations.

3. Since the establishment of the Fund, 15 countries have made financial contributions.

4. Since the Fund has not enjoyed a predictable pattern of income, substantial resources are systematically kept as a reserve for future activities; the secretariat of the Fund has been responsive to all requests, in line with the Fund's terms of reference, to enable participation.

III. Activities

A. Travel to meetings

5. Under the terms of reference of the Fund, financial support for travel to meetings is made available to developing countries, in particular least developed countries, to cover travel to Geneva by one official government representative in order to participate:

(a) In sessions of the Working Group on the Universal Periodic Review during which the representative's country is considered;

(b) In plenary sessions of the Human Rights Council during which the outcome of the review of the representative's country is adopted.

6. The Fund also provides for the travel of official representatives (one per delegation) of developing countries, in particular least developed countries, that are members of the Human Rights Council and do not have a permanent mission in Geneva, to act as rapporteurs (namely, members of the troika).

7. In addition to travel costs, the Fund also provides for the payment of a daily subsistence allowance at the rate applicable to Geneva at the time of travel. Under the standing official provisions for such travel, a Government formally requesting this assistance would be advised of the official entitlements for travel and daily subsistence allowance in connection with the required itinerary, which would be reimbursed upon completion of the travel and provision of the necessary supporting documentation. This arrangement, however, proved onerous for many requesting Governments, and since they were unable to submit the claims documenting their travels they were not reimbursed. In an effort to address this issue, since the seventeenth session of the Working Group on the Universal Periodic Review (21 October–1 November 2013), the secretariat has arranged to provide the economy class tickets prior to travel, and payment of the daily subsistence allowance upon arrival in Geneva, thereby alleviating most of the difficulties associated with retroactive reimbursement of expenses.

8. Direct ticketing does, however, require more advance planning since Governments are required to designate their delegate with lead time sufficient to enable the secretariat to make the travel arrangements and issue the ticket in accordance with the United Nations official travel policies. In cases where such direct ticketing is not possible, the previous arrangement for retroactive reimbursement of travel expenses is still provided.

9. A total of 15 States reviewed in 2014 requested financial assistance for travel to the sessions of the Working Group at which they were reviewed. Of those, eight were least developed countries or small island developing States. Five States, of which four were least developed countries or small island developing States, requested financial assistance for travel to attend the session of the Human Rights Council for the adoption of the outcome of their review. Of the 15 States, 14 have already received reimbursement for their expenditures.

10. Table 2 below shows the breakdown of financial assistance and annual expenditures, complete with the amount authorized, status of reimbursement and total commitments to date with regard to the financial assistance provided for the travel of government delegates to Geneva.

Table 2

Expenditures for travel of government representatives to attend sessions of the Working Group on the Universal Periodic Review and plenary sessions of the Human Rights Council

Year	*Number of countries reimbursed*	*Amount authorized pending claim (United States dollars)*	*Amount paid (United States dollars)*
2008	6	13 280	16 885
2009	17	33 846	23 568
2010	23	46 365	39 942
2011	21	81 778	11 698
2012	3	12 920	11 295
2013	6	35 176	35 176
2014	15	57 564	53 939
Total			**192 503**

B. Training

11. The terms of reference of the Fund allow the financing of briefings prior to the sessions of the Working Group on the Universal Periodic Review to assist countries in the preparatory process. These briefings usually consist of plenary segments and breakout group discussions during which the policies, procedures and modalities of the universal periodic review are examined, information is exchanged, and good practices and lessons learned are discussed concerning the organization of national consultations, the setting up of interministerial coordination mechanisms, the drafting of national reports and participation in the interactive dialogues held by the Working Group and the Human Rights Council in plenary session.

12. Increased efforts were invested in keeping States engaged in cooperation with the universal periodic review mechanism. This relates in particular to small island developing States and least developed countries with no representation in Geneva. Targeted outreach activities in 2014 involved bilateral meetings with the embassies of those countries in New York (10–14 February) and Brussels (26–28 November) and a training seminar in Casablanca, Morocco (9–11 December).

13. The bilateral briefings in New York and Brussels were part of a broad strategy to engage countries with limited human capacity through different entry points. The New York mission was part of a set of briefings that were initiated in 2009 as outreach activities to inform delegations about the universal periodic review process and mechanism. The initial format of the briefings was revisited in 2012 to focus on bilateral meetings at the Permanent Missions of selected small island developing States and least developed countries, including a general meeting with all interested delegations. In February 2014, meetings were requested with the Permanent Missions of Antigua and Barbuda, Dominica, Fiji, the Gambia, Grenada, Guinea-Bissau, Guyana, Kiribati, the Marshall Islands, Micronesia (Federated States of), Nauru, Palau, Papua New Guinea, Saint Lucia and

Suriname. Meetings were subsequently held with the delegations of those countries, with the exception of Dominica, Fiji, the Gambia and Nauru.

14. The bilateral and tailored nature of each briefing was highly appreciated and positive feedback was received from the delegations concerned. While in most cases the New York representation was in charge of relations with the United Nations, including in Geneva, in some cases Permanent Representatives to the United Nations were based in Brussels. It was found that in the past, owing to proximity and ease of contact, engaging Brussels-based embassies of States increased the chances of securing the consistent engagement of those States and facilitated follow-up to their national obligations. Meetings were held with representatives of Guyana, Malawi, Sao Tome and Principe and Seychelles, and with the representative of the Embassies of the Eastern Caribbean States and Missions to the European Union in respect of Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines.

15. While in Brussels, OHCHR representatives took the opportunity to hold a series of information meetings with various divisions of the European External Action Service. During the course of those meetings, participants expressed a keen interest in the universal periodic review. They expressed interest in what they referred to as "horizontal issues", namely, coordination between agencies and delegations on human rights issues, and in understanding better the role and involvement of civil society organizations throughout the universal periodic review process.

16. In follow-up to the seminar organized in Mauritius in July 2013 (see A/HRC/25/36, paras. 12 and 19) a seminar was held in Casablanca from 9 to 11 December, focused on methods of work and modalities of engagement of least developed countries and the small island developing States with the Human Rights Council and the universal periodic review. A total of 37 officials, representing 20 countries, travelled from Geneva or their respective capital to participate in the event. Staff from the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Vice-President of the Council participated in the briefing as resource persons.

17. The Casablanca seminar provided an opportunity for French-speaking States to deepen their knowledge of the Human Rights Council and the universal periodic review and to increase their skills through a simulation exercise on the analysis of recommendations and determination of position by States under review. It also included an exercise in which delegates were able to take on the role of troika member, which was perceived as an effective learning tool for delegates whose States had not yet served as members of the Council and that had consequently not had opportunities to engage with the mechanism as part of a troika.

18. The fourth seminar organized by the International Organization of la Francophonie in partnership with OHCHR on the universal periodic review was held in Chisinau in April 2014. The main objective was to identify challenges faced by francophone States in the implementation of universal periodic review recommendations and recommendations emanating from other human rights mechanisms. The seminar was also aimed at highlighting positive examples of such implementation and follow-up measures.

19. The seminar was organized around four main themes, which participants debated in working groups: national plans for the implementation of recommendations; assessment of the implementation of recommendations; preparation and drafting of the national report; and technical and financial assistance for the implementation of recommendations.

20. A number of conclusions were drawn at the seminar; they were focused, in particular, on the cyclical nature of the universal periodic review process; the number and formulation of recommendations; the usefulness of mid-term reports to keep track of the status of implementation of recommendations and related challenges; the importance of

identifying indicators to monitor progress; the role of civil society and national human rights institutions throughout the process; and the increasing role and the value added by the involvement of parliamentarians.

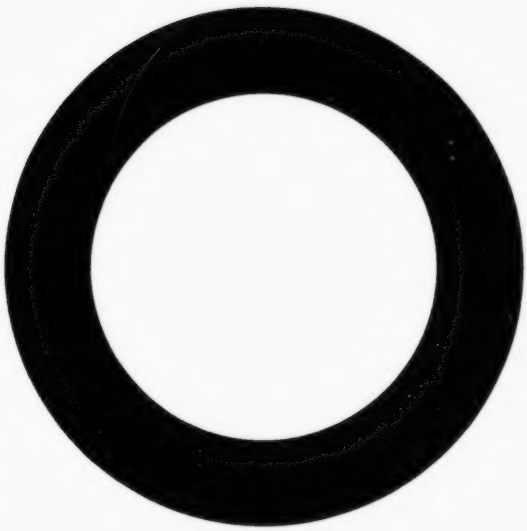
21. OHCHR formalized a partnership with the Inter-Parliamentary Union in order to strengthen the participation of parliamentarians in the work of the Human Rights Council, with a specific focus on the universal periodic review and the implementation of recommendations emerging from the review, and in recognition of the importance of such participation. In this context, a series of regional seminars were held in 2014, namely, in Bucharest (February), Montevideo (July) and Rabat (September). Parliamentarians from the respective regions were brought together at the seminars with a view to familiarizing them with the universal periodic review process and identifying areas for their intervention and involvement.

IV. Conclusions

22. The Voluntary Fund for Participation in the Universal Periodic Review continued to facilitate the participation of developing countries, and in particular least developed countries, in the sessions of the Working Group on the Universal Periodic Review at which they are considered. Assistance has been provided to those States, at their request, to enable them to participate in the adoption of their outcome document by the Human Rights Council at its plenary sessions. In that regard, and in addition to the relevant correspondence, the secretariat is following up with delegations through a more proactive approach to ensure that all States entitled to assistance under the Voluntary Fund avail themselves of the opportunity.

23. Since the inception of the universal periodic review and the inherent related challenge to ensure that participation is indeed universal, the needs and constraints of least developed countries have been considered. Ensuring the informed, regular and full participation of States with little resources and no representation in Geneva, in addition to all other States, requires regular outreach activities. Specific attention and focus have been given to those countries through targeted initiatives either at the bilateral level or through the organization of subregional seminars. Initiatives to follow up on the Mauritius and Casablanca seminars will be pursued in 2015 through targeted seminars for Lusophone countries and Caribbean States.

24. OHCHR is expanding and strengthening its partnership with the Inter-Parliamentary Union, and the series of regional seminars will be continued in 2015. It is expected that once the first round of seminars is concluded a compilation of the good practices that emerged in the meetings will be prepared and widely shared among relevant stakeholders.



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Universal Periodic Review

Report of the Office of the United Nations High Commissioner for Human Rights on the operations of the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review

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I. Introduction

A. Submission of the report

1. The present report is submitted in accordance with Human Rights Council decision 17/119, in which the secretariat was requested to provide an annual written update on the operations of the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review (hereinafter, "the Voluntary Fund") and on the resources available to it. The report has been prepared by the secretariat in consultation with the Board of Trustees of the Voluntary Fund and has been approved by the Board. The present report provides an overview of contributions and expenditure as at 31 December 2014, together with a description of action taken since the submission of the previous report (A/HRC/26/54) to operationalize the Voluntary Fund. It also provides a description of the activities to be funded by the Voluntary Fund during the course of 2015.

B. Background

2. In its resolution 6/17, the Human Rights Council requested the Secretary-General to establish a new financial mechanism called the Voluntary Fund for Financial and Technical Assistance in order to provide, in conjunction with multilateral funding mechanisms, a source of financial and technical assistance to help countries implement recommendations emanating from the universal periodic review in consultation with, and with the consent of, the country concerned. In its resolution 16/21, the Human Rights Council requested that the Voluntary Fund be strengthened and operationalized in order to provide a source of financial and technical assistance to help countries, in particular least developed countries and small island developing States, to implement the recommendations emanating from their review. The Human Rights Council also requested that a board of trustees be established in accordance with the rules of the United Nations.

3. The Voluntary Fund was established in 2009. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has begun operationalizing the Fund by providing financial and technical assistance to States which have requested support. Support has been provided in the spirit of the universal periodic review, in the founding resolution for which it is provided that the objectives are the improvement of the human rights situation on the ground (Human Rights Council resolution 5/1, annex, para. 4 (a)), the fulfilment of the State's human rights obligations and commitments (ibid., para. 4 (b)) and the enhancement of the State's capacity and of technical assistance, in consultation with, and with the consent of, the State concerned (ibid., para. 4 (c)).

II. Operationalization of the Fund

A. Board of Trustees of the Fund

4. On 30 May 2013, the Secretary-General appointed the members of the Board of Trustees of the Voluntary Fund for Technical Cooperation to serve also as the Board of Trustees for the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review. They are tasked with overseeing the management of the latter Fund.

5. In close consultation with the various sections of OHCHR, the Board of Trustees focuses its attention on broadly guiding the operationalization of the Fund by providing policy advice.

6. Since the submission of the last report (A/HRC/26/54), the Board of Trustees has held its third session in Geneva in October 2014 and the fourth session in Phnom Penh and Bangkok in February 2015, during which it had an opportunity to provide OHCHR with policy guidance aimed at maximizing the effectiveness of technical assistance and financial support to States in implementing recommendations of the universal periodic review and other international mechanisms at the country level.

7. During its third session in Geneva, the Board of Trustees recommended that OHCHR consider establishing focal point systems for the universal periodic review at the OHCHR regional office level in order to provide support to countries of the respective regions for effective follow-up to universal periodic review and other mechanisms' recommendations. That should be done hand in hand with the treaty body reform outcome and utilize additional resources. Furthermore, the Board of Trustees highlighted the importance of documenting promising practices and lessons learned on follow-up to the universal periodic review that can be shared with OHCHR field presences to promote more effective follow-up to universal periodic review and other mechanisms' recommendations on the ground.

8. During its fourth session, which was focused on reviewing the follow-up support work of OHCHR in the Asia-Pacific region, the Board of Trustees also had an opportunity to discuss with OHCHR how the latter provides technical assistance and financial support through the Voluntary Trust Fund for Financial and Technical Assistance for the Implementation of the Universal Periodic Review in a more systematic fashion and with greater impact. The Board of Trustees also stressed the importance of coherent and coordinated use of the two voluntary funds, namely the Voluntary Fund for Financial and Technical Assistance for the Implementation of the Universal Periodic Review and the Voluntary Fund for Technical Cooperation in the Field of Human Rights, for greater efficiency and sustained impact. The Board of Trustees also held a substantive dialogue with United Nations country teams, with a view to identifying broad policy advice in connection with the latter's efforts to integrate the recommendations of international human rights mechanisms, including treaty bodies, special procedures and the universal periodic review, into their respective country programming. The Board of Trustees was impressed by efforts to incorporate human rights perspectives and strategies, including the recommendations of international human rights mechanisms, into United Nations common country programming documents, such as the United Nations Development Assistance Framework. It encouraged strongly the continuation and expansion of those efforts. The Board of Trustees welcomed the ongoing OHCHR efforts to provide technical assistance and financial support systematically through the use of the Fund to help States in implementing recommendations of international human rights mechanisms.

B. OHCHR strategic vision for follow-up to universal periodic review and the Fund: going forward

9. As noted in the previous report (A/HRC/26/54), OHCHR has been developing the capacity to provide increased support to States in their efforts to implement the outcome of the universal periodic review, including through the operationalization of the Voluntary Fund. That effort has included an integrated approach to supporting implementation of recommendations emanating from all the international human rights mechanisms.

10. OHCHR has revitalized a strategic vision for follow-up to the universal periodic review that is more proactive, systematic and results-oriented. This newly revitalized strategy for that follow-up has enabled OHCHR to provide more effective support to States on the ground, whether directly or through ensuring the integration of support in United Nations country team programming on follow-up, to enable States to achieve concrete results for the promotion and protection of human rights.

11. Building on lessons learned, OHCHR has focused its support on establishing and/or strengthening national processes for follow-up; a well-functioning inter-institutional body has been identified as a key element for more effective follow-up at the national level, along with an implementation action plan that clearly identifies achievable results and priorities, responsible national government agencies for implementation, as well as indicators and timelines against which to measure impact. Furthermore, OHCHR has been providing support to key thematic issues contained in such an implementation action plan, which have been identified as priority issues for implementation.

12. The documentation of best practices is also an important priority for OHCHR. It is vital that good practices on national processes for follow-up, including on how the United Nations agencies at country level are working together to promote Human Rights Up Front, should be made available as widely as possible. The Voluntary Fund therefore continues to fund the documentation of good practices, in particular on such national processes. It also seeks to document good practices and lessons learned on implementation of important thematic issues that were raised in universal periodic review recommendations.

III. Activities to be supported by the Fund during 2015

13. As noted above, in an effort to systematize support given to States, technical assistance will be provided to a number of States, focusing on the establishment and/or strengthening of national follow-up processes.

14. For instance, in Bosnia and Herzegovina, continuing support will be provided to the Government through the United Nations country team for the purpose of the latter's preparing an implementation plan for the second-cycle universal periodic review recommendations through workshops and advice, strengthening its engagement with stakeholders, including the Ombudsman, and training civil servants.

15. In Chad, technical assistance will be provided to the authorities to draft and adopt, in collaboration with civil society, a national action plan for the implementation of the recommendations emanating from the treaty bodies and the universal periodic review. Assistance will also be provided for the purposes of reworking the statutes of the National Human Rights Commission and strengthening the capacity of its members in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

16. In Costa Rica, the Regional Office for Central America will continue supporting and assisting the country to strengthen the capacity of the inter-institutional commission to follow-up on the implementation of recommendations from human rights mechanisms and providing technical advice on prioritized recommendations. In particular, OHCHR will assist in defining a roadmap to follow up on universal periodic review recommendations from the first and second cycle, and assist in the mainstreaming of recommendations from all human rights mechanisms in United Nations programming and assistance.

17. In the Dominican Republic, through the human rights adviser, support will be provided to promote dialogue between State institutions and civil society and to advance the process of designing a national human rights action plan to follow up on universal

periodic review recommendations. Technical advice will also be provided for defining the methodology and timelines in that regard.

18. Through the work of the human rights adviser recently deployed to Jamaica, support will be provided for the drafting of a common core document, which will contribute to increasing the capacity of Jamaica to meet its reporting obligations to international human rights mechanisms as follow-up to universal periodic review recommendations. Support will also be provided for creating a database on human rights recommendations in order to increase the State capacity to follow up on the recommendations of all international human rights mechanisms.

19. In Kazakhstan, technical assistance will be provided to the Government to implement the recommendations that were put forward during the second cycle of the universal periodic review and in which developing and implementing a national action plan on human rights and strengthening the capacity of the national preventative mechanism were called for. Expert advice and guidance will be provided for the establishment of a standing national coordinating mechanism to ensure integrated follow-up to recommendations of human rights mechanisms.

20. The former Yugoslav Republic of Macedonia established the Inter-Sectoral Body on Human Rights following its first universal periodic review. That body is composed of the State secretaries of the key ministries and took the lead in coordinating follow-up to recommendations emanating from the universal periodic review and those of the other human rights mechanisms. Follow-up to the consultations on its second universal periodic review pointed to the need for increased substantive and expert support to the body and for increased capacity through the addition of an "expert advisory group". Technical assistance will be provided to contribute to increasing the capacity of the body and the expert group. Various actions will be undertaken, including a study visit to other States in a similar situation, "mentoring" from another State to follow up on improving the process and capacities, training workshops (which will also reinforce the involvement of civil society stakeholders) and seminars on examining recommendations and developing tools to monitor follow-up to recommendations.

21. In Malaysia, the Human Rights and Development Theme Group of the United Nations country team has been engaging with the Government for the development of a national action plan on the implementation of recommendations of the second-cycle universal periodic review. In that regard, support will be provided to organize consultative meetings between the Government and different stakeholders on the development of the action plan. The National Human Rights Commission of Malaysia, part of the Governmental Task Force on the development of the national human rights action plan, intends to develop a database to track the implementation of the universal periodic review recommendations, in consultation with the Government of Malaysia. Support will hence be provided to Commission for developing such a database, which will be modelled on a good practice example in the area from other countries.

22. In Mali, technical assistance will be provided to strengthen the national follow-up processes. Hence, assistance will specifically be aimed at: initiating a discussion on the relevance of merging various interdepartmental committees that exist in the country; supporting the Malian authorities in preparing an implementation action plan for universal periodic review recommendations; and supporting the National Steering Committee pending the merging of the various existing interdepartmental committees. A national consultant will assist the authorities in drafting the action plan for the implementation of the recommendations.

23. Following a request from the Government of Mauritania for support in the development and implementation of a strategy to follow up on the recommendations of the

universal periodic review and other human rights mechanisms in coordination with and with the support of the United Nations country team, technical assistance will be provided to the Government, which has committed to setting up the Inter-Ministerial Technical Committee, which will take action to implement the recommendations of the universal periodic review and of other human rights mechanisms. That technical assistance is specifically geared towards supporting the establishment of the Inter-Ministerial Technical Committee responsible for implementation, monitoring and reporting to treaty bodies, special procedures and the universal periodic review. Support will also be provided for drafting a national action plan for implementation. To that end, a workshop on validation of the National Action Plan for the implementation of recommendations of treaty bodies, special procedures and the universal periodic review will be organized with the participation of the National Human Rights Commission and civil society organizations.

24. In Nigeria, assistance will be provided to the Government to strengthen the Inter-Ministerial Committee and for drafting a national plan of action for the implementation of the universal periodic review recommendations in collaboration with concerned stakeholders, including the National Human Rights Commission and civil society actors. To achieve that, in addition to the OHCHR Human Rights Adviser's providing assistance, a national consultant will also be recruited who will assist the Inter-Ministerial Committee in drafting the plan of action and finalizing the reports due to treaties bodies.

25. In Paraguay, the Human Rights Adviser will continue providing technical assistance to State institutions in two areas: (a) to implement prioritized recommendations in three thematic areas and (b) to enhance the capacity of the Ministry of Foreign Affairs, the Ministry of Justice and the Human Rights Network of the Executive Branch to monitor and report on progress in the implementation of international human rights recommendations through a monitoring system developed as part of the cooperation. Specifically, OHCHR will continue providing technical assistance, specialized training and support to hold broad consultations with target groups, to enhance the capacity of the Secretariat of Social Action, the Institute for Indigenous Issues and the National Secretary for the Human Rights of People with Disabilities to apply a human rights-based approach in the definition of policies related to the fight against poverty, the protection of indigenous peoples and the rights of persons with disabilities. OHCHR will also continue assisting Paraguay in enhancing the capacity of institutions to use the SIMORE database (Monitoring System on International Recommendations) developed as part of the first phase of the cooperation provided by OHCHR. In addition, and at the request of the Government, OHCHR will also provide the necessary technical support and assistance to establish a link between the SIMORE database and the Universal Human Rights Index database managed by OHCHR in Geneva.

26. In Rwanda, a national consultant will be hired to carry out, under the supervision of the Human Rights Adviser, the following main activities. Firstly, he will provide technical support to strengthen the capacity of the Treaty Body Reporting Task Force of the Government of Rwanda, which developed the universal periodic review roadmap after the 2011 review and has been entrusted with the implementation of the recommendations. Secondly, he will support the National Commission for Human Rights and relevant stakeholders in developing and implementing human rights-related policies. That national consultant is an integral part of the Resident Coordinator's Office, focusing on follow-up to the universal periodic review and the relevant programmes to be developed under the United Nations Development Assistance Plan Flagship Programme known as "Access to Justice, Human Rights and Peace Consolidation".

27. In Senegal, technical assistance will be provided to the Technical Committee that will review the National Action Plan for implementation of the recommendations of international human rights mechanisms, including the universal periodic review.

28. Following a request for financial and technical assistance from Seychelles, technical assistance will be provided to strengthen the national human rights institution to ensure its compliance with the Paris Principles, which will take the form of assisting with the review of the relevant legislation and the drafting of an amendment bill, as well as a review of the current structural set-up of the institution. Assistance will be provided with the development of a coordinating mechanism for human rights education. Assistance will also be provided with a view to strengthening the capacity of law enforcement officials to ensure respect for juvenile justice standards, which will take the form of aiding in the assessment of current practices and the establishment of standards and procedures.

29. In Solomon Islands, support will be provided through the deployment of a National United Nations Volunteer to be based in the Ministry of Justice and Legal Affairs. This Volunteer will work closely with relevant government entities, civil society, United Nations agencies and regional organizations in order to promote and support the establishment of an inter-ministerial coordinating committee in charge of reporting to international human rights mechanisms, including the universal periodic review and treaty bodies. The Volunteer will also assist the Government in preparing its second-cycle universal periodic review report by taking stock of the level of implementation of the recommendations from the first cycle, including through consultations with various stakeholders on shortfalls, developments and activities related to those recommendations.

30. In Sudan, technical assistance will be provided with strengthening the capacity of the Special Criminal Court on the Events in Dartur. That assistance will take the form of a training course for judges and court staff on the application of international standards in the delivery of criminal justice. Training courses on criminal investigations will also be provided. The technical assistance will be provided in accordance with recommendations relating, inter alia, to support for the rule of law and the delivery of justice in Dartur, and the organization of training programmes for judicial and law enforcement personnel, all of which enjoy the support of Sudan.

31. In Tajikistan, technical assistance will be provided to the Government to strengthen the structure and capacity of the national coordination mechanism in order to ensure effective coordination and monitoring of follow-up to the recommendations of human rights mechanisms. In particular, the regulatory framework of the national coordination mechanism will be amended and improved based on expert advice to be provided as part of that technical assistance. A series of training sessions and workshops on international human rights mechanisms and their reporting requirements will be organized for various ministries' representatives of the national coordination mechanism to ensure their effective input in the follow-up and reporting processes.

32. In Timor-Leste, a broad-based National Directive Commission composed of representatives of the Government, the national human rights institution, civil society and the private sector was established in 2014 to draft a national human rights action plan. Support will be provided to increase the capacity of that Commission to draft the action plan through an inclusive and participatory process. The action-planning process will include an exercise of prioritization of key recommendations made to date to Timor-Leste during the universal periodic review and by other United Nations human rights mechanisms. Support will also be provided for the drafting of a baseline study, public consultations, capacity development of Commission members and a public information campaign to disseminate information on the action-planning process, seeking input from the public.

33. In Afghanistan, support will be provided to the Human Rights Support Unit of the Ministry of Justice for reviewing and updating the National Action Plan on Implementation of Recommendations from United Nations Human Rights Monitoring Mechanisms following the examination of the periodic reports by Afghanistan by the Committee on

Economic, Social and Cultural Rights (2010), the Committee on the Elimination of Discrimination against Women (2013) and the Committee on the Rights of the Child (2011), and the universal periodic review (2014). More specifically, support will be provided for follow-up and tracking of the status of the implementation of recommendations of international human rights mechanisms by State institutions. Furthermore, support will be provided to the Unit to: ensure the compliance of all Afghan laws, regulations, policies, strategies and State programmes with international human rights standards to which Afghanistan is a State party; raise awareness and build the capacity of State officials on human rights commitments; and provide technical assistance and capacity-building within the Unit in its coordination of the universal periodic review recommendations.

34. In Bhutan, a United Nations Volunteer will be attached to the United Nations country team or the Ministry of Foreign Affairs to provide technical support to the Ministry of Foreign Affairs for the establishment of an inter-ministerial coordination body.

35. Continuing support has also been provided on the ground for follow-up to recommendations of international human rights mechanisms in the framework of the United Nations country programming. For instance, based on the experience of cooperation with Barbados in 2015, OHCHR will extend cooperation to English-speaking Eastern Caribbean States, through support to be provided by a national human rights institution and universal periodic review focal point based at the Office of the United Nations Resident Coordinator in Barbados and the Organization of Eastern Caribbean States, and working closely with United Nations entities in the region. Activities will focus on raising awareness of human rights and the United Nations protection mechanisms; encouraging concrete actions by Governments to address the recommendations made by international human rights mechanisms, the establishment of inter-institutional coordinating mechanisms, the creation of follow-up plans and the development of tools; and providing technical advice and support to build and strengthen existing national capacities to promote and protect human rights.

36. The OHCHR Regional Office for South America will continue supporting Argentina, Brazil, Chile, Ecuador, Peru and Uruguay to enhance their capacity to follow up on the recommendations of international human rights mechanisms, including through cooperation within the framework of the United Nations country programming. In cooperation with the United Nations country teams, and with expert advice and support from the Regional Office, OHCHR will continue to provide support to the Governments and civil society in analysing and reviewing key universal periodic review recommendations, establishing inter-institutional mechanisms, defining road maps and identifying the needs for capacity-building and technical assistance, which have been integrated into the respective United Nations common country programming documents, such as the United Nations Development Assistance Framework. Furthermore, OHCHR will support the documenting and sharing of good practices of cooperation with United Nations human rights mechanisms among countries of the region, as well as those of strategies and policies to address key thematic human rights issues.

37. Moreover, technical assistance and support will be provided to a number of States focusing on priority thematic issues. For instance, in the Philippines, a seminar package will be provided to the Philippines Human Rights Commission through the United Nations Development Programme in order for it to organize a workshop on the establishment of a national preventative mechanism envisaged under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In Thailand, the Ministry of Justice has been taking the lead to prepare for the ratification of the Optional Protocol. Support in that regard will be provided to the Ministry of Justice

with a view to increasing awareness and understanding among the concerned agencies in terms of the implication of ratifying the Optional Protocol.

38. In view of specific recommendations accepted by Panama on intensifying its efforts to guarantee the right of all children to birth registration during its 2010 universal periodic review, a project initiated in 2013 is focusing on ensuring birth registration of indigenous children in remote areas. The OHCHR Regional Office in Central America based in Panama, in cooperation with the United Nations Children's Fund (UNICEF), is assisting the National Directorate of Civil Registry of the Electoral Tribunal in reaching out to indigenous Ngabe-Bugle communities of Mama Tata religion that have traditionally refused to be registered.

IV. Financial situation of the Fund

Table 1

Statement of income and expenditure for the biennium 2014–2015 (1 January 2014–31 December 2014)

I. Income	*US$*
Voluntary contributions received from Governments in 2014	490 440.91
Miscellaneous and interest income	16 319.72
Total income	**506 760.63**
II. Expenditure	*US$*
Staff costs	83 682.50
Experts' and consultants' fees and travel	220 261.00
Staff travel	58 652.36
Travel of representatives	48 940.92
Contractual services	30 290.00
General operating expenses	2 554.00
Supplies and materials	0
Grants, contributions and seminars	259 973.05
Programme support costs	91 566.01
Total expenditure	**795 919.84**
Net excess (shortfall) of income over expenditures for the period	**-289 159.21**
Opening balance 1 January 2014	**1 813 869.00**
Miscellaneous adjustments/savings/refunds to donors	**327 962.72**
Total fund balance as at 31 December 2014	**1 852 672.51**

Table 2

Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review — voluntary contributions since the establishment of the Fund to 31 December 2014

Donor	*US$*
Year 2008/2009	
Colombia	40 000
Russian Federation	450 000

Donor	*US$*
United Kingdom of Great Britain and Northern Ireland	45 326
Biennium 2010–2011	
Germany	148 148
Morocco	500 000
Russian Federation	200 000
United Kingdom of Great Britain and Northern Ireland	133 707
Biennium 2012–2013	
Australia	387 580
Germany	475 664
Kazakhstan	9 975
Norway	849 114
Biennium 2014–2015	
Germany	136 779
Norway	333 667
Kazakhstan	19 975
Total contributions	**3 729 955**

39. Table 1 shows the detailed financial situation of the Fund as at 31 December 2014 (statement of income and expenditure).

40. Since the establishment of the Voluntary Fund in 2009, eight countries have made financial contributions: Australia, Colombia, Kazakhstan, Germany, Morocco, Norway, the Russian Federation and the United Kingdom of Great Britain and Northern Ireland. Table 2 provides an overview of all contributions received for the reporting period, from the establishment of the Fund to 31 December 2014. Additional financial contributions from Germany have been received during the period January–March 2015.

41. With the newly revitalized OHCHR strategic vision for follow-up to universal periodic review that enables OHCHR to provide systematic support to States focusing on national follow-up processes, and in line with the projects outlined above for 2015, allocations have significantly increased. Out of a balance of US$ 1,852,673 as at 31 December 2014, US$ 1,653,923 have been allocated in 2015. Hence, it is critical to expand the donor base of the Fund and to receive further funding in order to sustain and ensure the universal application of the new strategic vision for follow-up to all Member States, in line with the universality principle of the universal periodic review mechanism.

V. Conclusions

42. **Securing the political will and enhancing the ability of States to bring about tangible results with a view to improving the human rights situation are the key objectives of technical assistance and financial support. With a view to achieving those objectives, the Voluntary Fund for Financial and Technical Assistance for the Implementation of the Universal Periodic Review continues to serve as a valuable source of support for countries in the implementation of their universal periodic review recommendations.**

43. **As has been demonstrated, a revitalized OHCHR strategic vision for follow-up to universal periodic review that is more proactive, systematic and results-oriented has enabled OHCHR to provide systematic support to States in fulfilling their primary responsibility to implement the universal periodic review recommendations.**

Particular emphasis has been placed on the importance of establishing and/or strengthening national follow-up processes, including support given to the establishment of an inter-institutional body, design of an achievable implementation action plan and support given to implementation of priority thematic issues identified in such an implementation action plan.

44. It is also hoped that an integrated approach to following up on the recommendations of international human rights mechanisms, including treaty bodies, special procedures and the universal periodic review, continues to be applied as broadly and systematically as possible, which will help States to bring about concrete results for the promotion and protection of human rights on the ground.

45. A growing body of good practices on follow-up to the universal periodic review has been generated, which is being documented by various actors, including civil society organizations. OHCHR continues to pay attention to the need to document such good practices in a more systematic way as a priority, and will make every effort to ensure that good practices on national follow-up processes, including on how the United Nations agencies at country level are working together to promote Human Rights Up Front and on follow-up to common global thematic human rights issues, such as global themes such as prevention of violence against women and prevention of torture, are documented and shared to enable other States to replicate them, while tailoring them to their own specific needs.

46. It should be re-emphasized that the primary responsibility for the implementation of recommendations emanating from universal periodic review rests with States themselves and, as appropriate, with other relevant stakeholders. Hence, it is crucially important that the active participation of other stakeholders in the follow-up process be secured and encouraged.

47. It should also be emphasized that it is vital that more contributions be made to the Voluntary Fund in order to ensure the sustainability of support to States in implementing recommendations of international human rights mechanisms in a more systematic and integrated manner.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Follow-up to and implementation of the Vienna Declaration and Programme of Action

Discrimination and violence against individuals based on their sexual orientation and gender identity

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted to the Human Rights Council pursuant to its resolution 27/32, in which the Council requested the United Nations High Commissioner for Human Rights to update the report of the Office of the High Commission on violence and discrimination against individuals based on their sexual orientation and gender identity (A/HRC/19/41).

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I. Introduction

1. In 2011, pursuant to Human Rights Council resolution 17/19, the United Nations High Commissioner for Human Rights submitted a report to the Council in which she described a pattern of discrimination and violence directed at people in all regions on the basis of their sexual orientation and gender identity.[1] Almost three years on, in its resolution 27/32, the Council requested the High Commissioner to update the above-mentioned report with a view to sharing good practices and ways to overcome violence and discrimination, in application of existing international human rights law and standards.

2. The present report draws on recent findings of United Nations human rights bodies, regional organizations and non-governmental organizations, and information submitted by Governments, including 28 replies to a note verbale addressed to Member States on 29 December 2014.[2]

II. Recent developments

3. In recent years, Governments in all regions have pursued a variety of initiatives aimed at reducing levels of violence and discrimination based on sexual orientation and gender identity. For example, since 2011, 14 States have adopted or strengthened anti-discrimination and hate crime laws, extending protection on grounds of sexual orientation and/or gender identity and, in two cases, also introducing legal protections for intersex persons. Three States have abolished criminal sanctions for homosexuality; 12 have introduced marriage or civil unions for same-sex couples nationally; and 10 have introduced reforms that, to varying degrees, make it easier for transgender persons to obtain legal recognition of their gender identity.

4. In dozens of countries, police, judges, prison guards, medical staff and teachers are receiving gender and sexuality sensitivity training, anti-bullying programmes have been launched in schools, and shelters have been built to house homeless lesbian, gay, bisexual and transgender (LGBT) youth. Popular television programmes have integrated LGBT characters in a positive way and celebrities have helped to raise awareness by "coming out" as LGBT persons themselves or speaking out in support of members of the LGBT community. In all regions, LGBT and intersex[3] human rights defenders are more vocal and visible — in several cases successfully challenging in the courts attempts by authorities to restrict their legitimate activities.

5. While these advances are welcome, they are overshadowed by continuing, serious and widespread human rights violations perpetrated, too often with impunity, against individuals based on their sexual orientation and gender identity. Since 2011, hundreds of people have been killed and thousands more injured in brutal, violent attacks — some of which are chronicled below. Other documented violations include torture, arbitrary detention, denial of rights to assembly and expression, and discrimination in health care,

[1] A/HRC/19/41.

[2] Replies are available on the website of the Office of the High Commissioner at www.ohchr.org/EN/Issues/Discrimination/Pages/SOGIHRC29Replies.aspx.

[3] While "LGBT" is used in the present report, other terms are used in different regions. References are also included to violations against intersex persons, who may have any sexual orientation or gender identity. United Nations human rights mechanisms have repeatedly addressed such violations together with those directed at LGBT persons.

education, employment and housing. These and related abuses warrant a concerted response from Governments, legislatures, regional organizations, national human rights institutions and civil society, as well as from United Nations bodies — the Human Rights Council included.

6. Concerns regarding the extent and gravity of violence and discrimination against LGBT and intersex persons have been raised repeatedly by United Nations human rights treaty bodies and special procedures. In recent years, the Office of the High Commissioner (OHCHR) has published a range of guidance and public information materials — including factsheets, booklets and short videos — and has sought to engage States in a constructive dialogue on ways to better protect the rights of LGBT and intersex persons. In July 2013, the High Commissioner launched UN Free & Equal (www.unfe.org), a global education campaign to combat homophobia and transphobia that has so far reached more than a billion people around the world through events and via traditional and social media.

7. The rights of LGBT persons have also been a focus of work going on across the wider United Nations system. In his message to the Oslo Conference on Human Rights, Sexual Orientation and Gender Identity, the Secretary-General described the fight against homophobia and transphobia as "one of the great, neglected human rights challenges of our time" and pledged to work for an end to criminalization and for action to tackle violence and prejudice. United Nations agencies are increasingly integrating issues of sexual orientation and gender identity into their programmatic work, including in the areas of development, education, labour rights, child rights, gender equality, refugee protection, HIV and public health.[4]

8. Human rights, sexual orientation and gender identity have also been addressed by regional organizations in Africa, the Americas and Europe. In 2014, the African Commission on Human and Peoples' Rights passed a resolution in which it condemned violence and other human rights violations based on real or imputed sexual orientation and gender identity; the Organization of American States approved its seventh resolution on human rights, sexual orientation and gender identity, having in 2013 adopted the Convention against all forms of Discrimination and Intolerance, which addresses these issues; the Inter-American Commission on Human Rights established the mandate of Rapporteur on the rights of LGBT and intersex persons, having established a dedicated unit in 2011; the European Union adopted guidelines on the promotion and protection of human rights of LGBT and intersex persons, and both the European Parliament and the Parliamentary Assembly of the Council of Europe adopted resolutions on the subject; and the European Court of Human Rights and the Inter-American Court of Human Rights issued several judgements affirming the rights of LGBT persons to equal treatment and protection under the law.

III. Applicable international standards and obligations

9. Application of international human rights law is guided by the fundamental principles of universality, equality and non-discrimination. All human beings, irrespective of their sexual orientation and gender identity, are entitled to enjoy the protection of international human rights law with respect to the rights to life, security of person and privacy, to freedom from torture and ill-treatment, discrimination and arbitrary arrest and

[4] See "The Role of the United Nations in Combatting Discrimination and Violence against Individuals Based on Sexual Orientation and Gender Identity", OHCHR, 2014.

detention, and to freedom of expression, association and peaceful assembly, and all other civil, political, economic, social and cultural rights.

10. States have well-established obligations to respect, protect and fulfil the human rights of all persons within their jurisdiction, including LGBT and intersex persons. These obligations extend to refraining from interference in the enjoyment of rights, preventing abuses by third parties and proactively tackling barriers to the enjoyment of human rights, including, in the present context, discriminatory attitudes and practices. Specific related obligations are elaborated below, building on analysis in the previous report (A/HRC/19/41) and evolving work of United Nations human rights mechanisms.

A. To protect individuals from violence

11. States have an obligation to exercise due diligence to prevent, investigate, punish and redress deprivation of life and other acts of violence. United Nations mechanisms have called upon States to fulfil this obligation by taking legislative and other measures to prohibit, investigate and prosecute all acts of targeted, hate-motivated violence and incitement to violence directed at LGBT and intersex persons, and to provide remedy to victims and protection against reprisals.[5] They have called for State officials to publically condemn such acts, and to record statistics on such crimes and the outcomes of investigations, prosecutions and remedial measures.[6] The application of the death penalty on the basis of sexual orientation and gender identity violates fundamental State obligations to protect the rights to life, privacy, equality before the law and freedom from discrimination.[7]

12. States also have an obligation not to return refugees to places where life or freedom would be threatened on account of actual or perceived sexual orientation and gender identity.[8]

B. To prevent torture and ill-treatment

13. States have an obligation to protect all persons, including LGBT and intersex persons, from torture and other cruel, inhuman or degrading treatment or punishment in custodial, medical and other settings. This obligation extends to prohibiting, preventing, investigating and providing redress for torture and ill-treatment in all contexts of State control, including by ensuring that such acts are offences under domestic criminal law.[9] State responsibility is engaged if public officials, including prison and police officers, directly commit, instigate, incite, encourage, acquiesce in or otherwise participate or are complicit in such acts, as well as if officials fail to prevent, investigate, prosecute and punish such acts by public or private actors.[10]

14. The medical practices condemned by United Nations mechanisms in this context include so-called "conversion" therapy, forced genital and anal examinations, forced and

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[5] See CCPR/C/KGZ/CO/2, para. 9; A/HRC/20/22/Add.2, paras. 5, 55, 76; CCPR/C/MWI/CO/1/Add.1, para. 10.

[6] See CCPR/C/MWI/CO/1, para. 7; A/HRC/26/30/Add.3, para. 88.

[7] See CCPR/C/MRT/CO/1, para. 8; A/67/275, paras. 36-38.

[8] See also UNHCR, Guidelines on international protection No. 9, HCR/GIP/12/09, 23 October 2012; CCPR/C/108/D/2149/2012.

[9] See CAT/C/GC/3, para. 39.

[10] See CAT/C/GC/2, paras. 15-19.

otherwise involuntary sterilization and medically unnecessary surgery and treatment performed on intersex children.[11]

C. To decriminalize homosexuality and to repeal other laws used to punish individuals on the basis of sexual orientation and gender identity

15. States have an obligation to protect the rights to privacy, liberty and security of the person, including the right not to be subjected to arbitrary arrest and detention. United Nations mechanisms have called upon States to fulfil these obligations by repealing laws used to punish individuals based on their sexual orientation and gender identity, including laws criminalizing homosexuality and cross-dressing, and have rejected attempts to justify such laws on grounds of the protection of public health or morals.[12] States must refrain from arresting or detaining persons on discriminatory grounds, including sexual orientation and gender identity.[13]

D. To protect individuals from discrimination on grounds of sexual orientation and gender identity

16. The protection of rights to equality before the law, equal protection of the law and freedom from discrimination is a fundamental obligation of States under international law, and requires States to prohibit and prevent discrimination in private and public spheres, and to diminish conditions and attitudes that cause or perpetuate such discrimination.[14] To this end, States should enact comprehensive anti-discrimination legislation that includes sexual orientation and gender identity among protected grounds.[15] States should review and repeal discriminatory laws and address discrimination against LGBT and intersex persons, including in the enjoyment of the rights to health, education, work, water, adequate housing and social security.[16]

17. States also have obligations to address discrimination against children and young persons who identify or are perceived as LGBT or intersex. This includes harassment, bullying in schools, lack of access to health information and services, and coercive medical treatment.[17] United Nations mechanisms have called upon States to legally recognize transgender persons' preferred gender, without abusive requirements, including sterilization, forced medical treatment or divorce.[18] They have called upon States to develop education campaigns and train public officials to combat stigma and discriminatory attitudes, to provide victims of discrimination with effective and appropriate remedies, and

[11] See A/HRC/22/53, paras. 76-79, 88; CRC/C/CHE/CO/2-4, paras. 42-43; CAT/C/DEU/CO/5, para. 20.

[12] See CCPR/C/50/D/488/1992, paras. 8.3-10; E/C.12/IRN/CO/2, para. 7; CEDAW/C/UGA/CO/7, paras. 43-44; CRC/C/GAM/CO/2-3, paras. 29-30; A/HRC/14/20, paras. 17-26; CCPR/C/KWT/CO/2, para. 30.

[13] See CCPR/C/GC/35, paras. 3, 17; A/HRC/4/40/Add.1, opinion 22/2006, para. 19; A/HRC/22/44, para. 38.

[14] See CCPR/C/PER/CO/5, para. 8; E/C.12/GC/20, paras. 7-11; CEDAW/C/GC/28, para. 18.

[15] See E/C.12/GC/20, para. 32 and 39; CEDAW/C/CRI/CO/5-6, para. 40; CRC/C/AUS/CO/4, paras. 29-30; CRC/C/CHE/CO/2-4, para. 25.

[16] See E/C.12/GC/20, para. 11, 27 and 32; E/C.12/IDN/CO/1, para. 6; CRC/C/IRQ/CO/2-4, paras. 19-20.

[17] See CRC/C/RUS/CO/4-5, paras. 24-25, 55-56, 59-60; CRC/C/GC/15, paras. 8, 31, 60.

[18] See CCPR/C/IRL/CO/3, para. 8; CCPR/C/IRL/CO/4, para. 7; CCPR/C/UKR/CO/7, para. 10; CEDAW/C/NLD/CO/5, paras. 46-47.

to ensure that perpetrators face administrative, civil or criminal responsibility, as appropriate.[19] States should also provide legal recognition and protection to same-sex couples[20] and protect the rights of their children, without discrimination.[21]

E. To protect rights to freedom of expression, association and assembly and to take part in the conduct of public affairs

18. States have obligations to protect rights to freedom of thought and expression, association and peaceful assembly without discrimination on the grounds of sexual orientation or gender identity. To that end, they should review and repeal discriminatory provisions in domestic legislation that have a disproportionate impact on the exercise of these rights by LGBT persons and others advocating for their rights. States should refrain from directly interfering with these rights and protect LGBT persons exercising these rights from attacks and reprisals through preventive measures and by investigating attacks, prosecuting perpetrators and ensuring remedy for victims.[22]

19. States must protect the right to take part in the conduct of public affairs, without discrimination, and ensure that LGBT and intersex persons and organizations defending their rights are consulted with regard to legislation and policies that affect their rights.[23] States should take measures to empower LGBT and intersex persons, and to facilitate their participation in economic, social and political life.[24]

IV. Homophobic and transphobic violence

A. Context

20. Due diligence requires States to ensure the protection of those at particular risk of violence — including, in the present context, those targeted because of their sexual orientation and gender identity.

21. United Nations human rights mechanisms continue to receive reports of homophobic and transphobic violence committed in all regions. Such violence may be physical (including murder, beatings, kidnapping and sexual assault) or psychological (including threats, coercion and the arbitrary deprivation of liberty, including forced psychiatric incarceration). These attacks constitute a form of gender-based violence, driven by a desire to punish individuals whose appearance or behaviour appears to challenge gender stereotypes.

22. In addition to "street" violence and other spontaneous attacks in public settings, those perceived as LGBT remain targets of organized abuse, including by religious

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[19] See CCPR/C/AUS/CO/5, para. 8; CRC/C/ZAF/CO/3-5, paras. 55-56; CAT/C/RUS/CO/5, para. 15; CEDAW/C/CRI/CO/5-6, para. 41; CCPR/C/KOR/CO/4, para. 8; CCPR/C/21/Rev.1/Add.13.

[20] See E/C.12/BGR/CO/4-5, para. 17; E/C.12/SVK/CO/2, para. 10; CCPR/C/JPN/CO/5, para. 29.

[21] See CRC/C/GC/15, para. 8.

[22] See CCPR/C/GC/34, para. 26; CCPR/C/GEO/CO/4, para. 8; A/HRC/25/55/Add.3, para. 36; A/HRC/26/29.

[23] See A/HRC/23/36/Add.2, para. 97; CEDAW/C/DEU/CO/6, para. 61; CCPR/C/IRL/CO/4, para. 7.

[24] See A/69/365, paras. 24, 76, 87-91; A/HRC/26/39/Add.2, para. 110(a).

[25] See also A/HRC/19/41, paras. 20-39.

extremists, paramilitary groups and extreme nationalists.[20] LGBT and gender non-conforming youth are at risk of family and community violence. Lesbians and transgender women are at particular risk because of gender inequality and power relations within families and wider society.[21]

23. Violence motivated by homophobia and transphobia is often particularly brutal, and in some instances characterized by levels of cruelty exceeding that of other hate crimes.[22] Violent acts include deep knife cuts, anal rape and genital mutilation, as well as stoning and dismemberment.[23]

24. United Nations experts have condemned the persistence of impunity for these violations and repeatedly called for investigation, prosecution and punishment, and reparations for victims.[24] Reported shortcomings include ineffective police action, failure to register cases, loss of documents, inappropriate classification of acts, including physical assault as a minor offence, and investigations guided by stereotypes and prejudices.[25]

25. In most countries, the absence of effective systems for recording and reporting hate-motivated violence, or "hate crimes", against LGBT persons masks the true extent of violence. Where they exist, official statistics tend to understate the number of incidents.[26] Victims are often reluctant to report their experiences for fear of extortion, breach of confidentiality or reprisals. In addition, prejudicial and inexact categorization of cases results in misidentification, concealment and underreporting.[27] Failure to investigate, prosecute and punish violations when reported also contributes to incomplete assessments of the scale of violence.[28]

B. Killings

26. Hate-motivated killings of LGBT individuals have been documented in all regions. The Special Rapporteur on extrajudicial, summary or arbitrary executions has noted "grotesque homicides" perpetrated with broad impunity, allegedly at times with the "complicity of investigative authorities" (A/HRC/26/36/Add.1, para. 85). Treaty bodies, special procedures and United Nations agencies continue to express alarm at such killings and related patterns of violence, including the murder of transsexual women in Uruguay[29] and of Black lesbian women in South Africa.[30] In an assault in Chile, a gay man was beaten and killed by neo-Nazis, who burned him with cigarettes and carved swastikas into his body.[31]

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[20] See A/HRC/26/50, paras. 10, 14-15; A/HRC/28/66, para. 11.

[21] See A/HRC/26/38/Add.1, para. 19.

[22] See A/HRC/20/16, paras. 71-72, and "An Overview of Violence against LGBTI Persons", annex, press release 153/14, Inter-American Commission on Human Rights (IACHR), 2014, p. 3.

[23] See A/HRC/26/36/Add.1, paras. 85-87.

[24] See CCPR/C/BOL/CO/3, para. 7; A/HRC/26/36/Add.1, paras. 85-88; CAT/C/GC/3, paras. 8, 32.

[25] See A/HRC/23/49/Add.4, para. 23; A/HRC/26/36/Add.1, para. 86.

[26] See CCPR/C/URY/CO/5, para. 12; A/HRC/20/16, para. 71.

[27] See A/HRC/20/16, paras. 18, 71.

[28] See CCPR/C/GTM/CO/3, para. 11; CCPR/C/DOM/CO/5. The IACHR notes a "major underreporting" of acts of violence against lesbians (see footnote 28, p. 4).

[29] CCPR/C/URY/CO/5, para. 12.

[30] See A/HRC/20/16, paras. 55, 73; CERD/C/GC/34, para. 23.

[31] OHCHR, briefing note on Chile, 30 March 2012.

27. Data are patchy but, wherever available, suggest alarmingly high rates of homicidal violence. In Brazil, one of relatively few countries where the Government publishes an annual report on homophobic violence, the authorities documented 310 murders in 2012 in which homophobia or transphobia was a motive.[38] The Inter-American Commission on Human Rights reported 594 hate-related killings of LGBT persons in the 25 States members of the Organization of American States between January 2013 and March 2014.[39] In its resolution 275, the African Commission on Human and Peoples' Rights condemned increasing violence and other human rights violations based on imputed or real sexual orientation or gender identity. The European Parliament (resolution 2013/2183(INI)) and the Council of Europe (resolution 1948 (2013)) have also regularly expressed their concerns.

28. Reporting from non-governmental organizations underscores the prevalence of fatal violence. The Trans Murder Monitoring project, which collects reports of homicides of transgender persons in all regions, lists 1,612 murders in 62 countries between 2008 and 2014, equivalent to a killing every two days.[40] The National Coalition of Anti-Violence Programs in the United States of America reported 18 hate violence homicides and 2,001 incidents of anti-LGBT violence in the United States in 2013.[41]

29. Terrorist groups may target LGBT persons for punishment, including killings.[42] In February 2015, photos appeared to show several men, allegedly accused of homosexual acts, being pushed off a tower to their deaths by militants of the so-called Islamic State in Iraq and the Levant (ISIL).[43]

30. LGBT persons have also been victims of so-called "honour" killings, carried out against those seen by family or community members to have brought shame on a family, often for transgressing gender norms or for sexual behaviour, including actual or assumed homosexual conduct.[44]

C. Other violence, including sexual violence

31. United Nations experts continue to express their alarm at non-lethal violence directed at individuals on the grounds of their sexual orientation or gender identity. Examples include cases of gay men who have been kidnapped, beaten and humiliated, with film clips of their abuse shared on social media,[45] and of lesbians assaulted and raped because of their sexual orientation.[46] In the Syrian Arab Republic, there have been reports of rape and torture of men assumed to be gay perpetrated by security agents and by non-State armed groups.[47] Concerns have also been expressed about the risk to human rights

[38] Second report on homophobic violence in Brazil (2012). Department of Human Rights, June 2013 (available at www.sdh.gov.br/noticias/2013/junho/numero-de-denuncias-de-violencia-homofobica-cresceu-166-em-2012-diz-relatorio).

[39] IACHR (see footnote 28), p. 1.

[40] Trans Murder Monitoring results update, November 2014 (available at http://tgeu.org/tmm/).

[41] *Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate Violence in 2013*, National Coalition of Anti-Violence Programs, New York, 2014 (available at http://avp.org/resources/avp-resources/315).

[42] See CRC/C/IRQ/CO/2-4, paras. 27-28.

[43] OHCHR, press briefing notes on ISIL/Iraq, 20 January 2015.

[44] See A/HRC/23/47/Add.2, para. 49.

[45] A/HRC/26/50, para. 14.

[46] See CEDAW/C/GUY/CO/7-8, para. 22; A/HRC/20/16, paras. 55, 71, 73, 76.

[47] A/HRC/25/65, para. 67-71. Oral update of the Independent International Commission of Inquiry on the Syrian Arab Republic, 18 March 2014.

defenders working to uphold the rights of LGBT persons, some of whom have been subjected to violence, threats and verbal denigration.[48]

32. In the United States, recent government figures show that the number of bias-motivated incidents based on sexual orientation ranks second only to racist incidents among single-bias hate crimes.[49] A Europe-wide survey of 93,000 LGBT persons conducted in 2013 for the European Union Agency for Fundamental Rights found that a quarter of all respondents had been attacked or threatened with violence in the previous five years.[50] A survey conducted in 2012 by the non-governmental organization Stonewall in the United Kingdom of Great Britain and Northern Ireland found that one in six LGBT respondents had experienced a hate crime or incident in the previous three years; of those, 75 per cent had not reported the experience to the police.[51]

33. Treaty bodies and special procedures continue to express concern at rhetoric used to incite homophobic and transphobic hatred and related violence.[52] Such language is used by some political and community leaders to promote negative stereotypes, stir up prejudice and harass particular individuals, especially during electoral periods. The High Commissioner has expressed concern at inflammatory rhetoric used in Belarus, the Gambia and Honduras.[53] The Committee on the Rights of the Child has criticized statements by the Holy See as contributing to the stigmatization of, and violence against, LGBT adolescents and children raised by same-sex couples,[54] and about the negative impact of hate speech on LGBT and intersex adults and children in Switzerland.[55]

D. Torture and ill-treatment

34. The Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment have continued to express concerns at the torture and ill-treatment of LGBT persons in detention by or with the acquiescence of State officials.[56]

35. Reported cases include the arrest, beating and ill-treatment by police in Zimbabwe of 44 members of an LGBT organization.[57] Sixteen gay and transgender individuals in the United States were allegedly subjected to solitary confinement, torture and ill-treatment, including sexual assault, while in detention in immigration facilities.[58] A woman was reportedly arrested in Bangladesh for being a lesbian, and subsequently beaten and raped by police while in custody.[59] In Egypt, four people arrested on the basis of their alleged sexual

[48] See A/HRC/25/55/Add.3, paras. 433-435, 480-482.

[49] Uniform Crime Reports, 2013 Hate Crime Statistics, U.S. Department of Justice, 2014 (available at www.fbi.gov/about-us/cjis/ucr/hate-crime/2013).

[50] *EU LGBT Survey: Results at a Glance*, European Union Agency for Fundamental Rights, 2013, p. 7.

[51] *Homophobic Hate Crime: the Gay British Crime Survey 2013*, Stonewall, 2013, pp. 116-117.

[52] See CCPR/C/KR/CO/3, para. 10; A/67/357, para. 75; see also European Court of Human Rights, application 1813/07, 9 May 2012.

[53] Navi Pillay, "Prejudice fuels the denial of rights for LGBT people", *Jakarta Post*, 30 April 2014. See A/HRC/22/47/Add.1, para. 91.

[54] CRC/C/VAT/CO/2, para. 25.

[55] CRC/C/CHE/CO/2-4, para. 24.

[56] See A/HRC/19/61/Add.4, paras. 168, 172; CAT/C/KGZ/CO/2, para. 19.

[57] A/HRC/22/53/Add.4, para. 162.

[58] Ibid., para. 178.

[59] See CCPR/C/108/D/2149/2012, para. 2.2.

orientation and/or gender identity reportedly faced sexual assault by other inmates while in detention.[60]

36. The Special Rapporteur on violence against women, its causes and consequences has highlighted similar cases, noting that those with a non-heterosexual orientation, or whose gender expression did not fall into exact categories of female and male, were vulnerable to targeted abuse both by staff and by other prisoners. She expressed concern about lesbian women being placed in cells with men if they refused the sexual advances of prison staff. Female prisoners whom guards viewed as "masculine" in appearance were subjected to harassment, physical abuse and "forced feminization". Transgender prisoners face particularly harsh circumstances. In one case, in Guatemala, a transgender woman was allegedly raped more than 80 times while in detention.[61]

37. Some States continue to subject men suspected of homosexual conduct to anal examinations in order to "prove" their homosexuality. Such examinations have been described as "medically worthless" and condemned by the Committee against Torture, the Special Rapporteur on torture and the Working Group on Arbitrary Detention; all have held that the practice contravenes the prohibition on torture and ill-treatment.[62]

38. Other medical procedures that can, when forced or otherwise involuntary, breach the prohibition on torture and ill-treatment include "conversion" therapy, sterilization, gender reassignment, and unnecessary medical interventions involving intersex children (see paras. 14 above and 52, 53 and 70 below).

E. Positive developments since 2011

39. States have adopted a range of measures with a view to addressing homophobic and transphobic violence, including some highlighted in responses to the note verbale soliciting inputs for the present report. New or strengthened anti-hate crime laws have been enacted in several States, including Albania, Chile, Finland, Georgia, Greece, Honduras, Malta, Montenegro, Portugal and Serbia. Such laws can play an important role in facilitating the prosecution and punishment of perpetrators of hate-motivated violence and in establishing homophobia and transphobia as aggravating factors for the purposes of sentencing.

40. Other notable initiatives include the establishment of specialized hate crime prosecution units (Brazil, Honduras, Mexico, Spain), and an interagency working group on urgent cases (Colombia); improved police training and sensitization (Canada, Denmark, France, Montenegro, Philippines) and new policing guidelines (Spain, United Kingdom); national hotlines to report homophobic incidents (Brazil, Netherlands) and surveys to improve hate-crime data collection (Belgium (Flanders), Canada); a national task force on gender- and sexual orientation-based violence (South Africa); policies and protocols for ensuring the dignity and safety of transgender prisoners (Brazil, Canada); training materials on the rights of LGBT prisoners (Ecuador); and investigations by the human rights commission of allegations of torture and ill-treatment of LGBT and intersex detainees (Nepal).

[60] A/HRC/27/72, EGY 4/2014.
[61] A/68/340, paras. 58, 59, 63.
[62] A/HRC/22/53, paras. 76–79.

V. Discrimination[63]

41. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights have repeatedly urged States to tackle both direct and indirect discrimination against all persons, including LGBT and intersex persons.[64] States have an obligation to ensure that laws, policies and programmes executed by State authorities do not discriminate against individuals. They also have an obligation to address discriminatory practices, including by private actors, and to take action to prevent, diminish and eliminate the conditions and attitudes that contribute to substantive or de facto discrimination.

42. Discrimination against LGBT individuals is often exacerbated by other identity factors, such as sex, ethnicity, age and religion, and socioeconomic factors, such as poverty and armed conflict.[65] The impact of such multiple forms of discrimination may be felt at an individual level and a societal one, as LGBT persons, deprived of access to such basic rights as employment, health, education and housing find themselves in poverty, cut off from economic opportunity.[66] Studies undertaken in several countries suggest that rates of poverty, homelessness and food insecurity are higher among LGBT individuals than in the wider community.[67] The World Bank has documented the negative impact of homophobia on economic growth and development.[68]

A. Discriminatory laws

1. Laws criminalizing homosexuality and other laws used to penalize individuals because of sexual orientation or gender identity

43. States that criminalize consensual homosexual acts are in breach of international human rights law since these laws, by their mere existence, violate the rights to privacy and non-discrimination. Arrests and the detention of individuals on charges relating to sexual orientation and gender identity — including offences not directly related to sexual conduct, such as those pertaining to physical appearance or so-called "public scandal" — are discriminatory and arbitrary.[69] Since its landmark decision in *Toonen v. Australia* (communication No. 488/1992) in 1994, the Human Rights Committee and other mechanisms have repeatedly urged States to reform laws criminalizing consensual same-sex conduct, and welcomed their repeal.

44. At least 76 States retain laws that are used to criminalize and harass people on the basis of sexual orientation and gender identity or expression, including laws criminalizing

[63] See also A/HRC/19/41, paras. 40-47.

[64] See E/C.12/GC/20, paras. 7-11; CCPR/C/PER/CO/5, para. 8.

[65] See CRC/C/GC/15, para. 8; A/HRC/20/16, paras. 17, 23-27; A/HRC/26/50, para. 15; CEDAW/C/GC/28, para. 18.

[66] See A/HRC/27/55, paras. 64-66; E/C.12/PER/CO/2-4, para. 5.

[67] See Lucas Paoli Itaborahy, *LGBI people living in poverty in Rio de Janeiro* (London, Micro Rainbow, 2014); and Gary J. Gates, "Food Insecurity and SNAP (Food Stamps) Participation in LGBT Communities", Williams Institute, February 2014.

[68] M.V. Lee Badgett, "The economic cost of stigma and the exclusion of LGBT People: a case study of India", World Bank Group, 2014.

[69] See CCPR/C/BLZ/CO/1, para. 13; CCPR/C/PHL/CO/4, para. 10; CCPR/C/SLV/CO/6, para. 3(c).

consensual, adult same-sex relationships.[70] Sometimes inherited as colonial-era legislation, these laws typically prohibit certain types of sexual activity or any intimacy between persons of the same sex. Cross-dressing or "imitating the opposite sex" is also sometimes penalized.[71] Wording often refers to vague and undefined concepts, such as "crimes against the order of nature" or "morality", "debauchery", "indecent acts" or "grave scandal".[72] Penalties include lashings, life imprisonment and the death penalty.

45. Human rights mechanisms continue to emphasize links between criminalization and homophobic and transphobic hate crimes, police abuse, torture, family and community violence and stigmatization, as well as the constraints that criminalization put on the work of human rights defenders.[73] The Special Rapporteur on freedom of religion or belief has noted that these laws may give a pretext to vigilante groups and other perpetrators of hatred for intimidating people and committing acts of violence.[74]

2. Death penalty

46. In the Islamic Republic of Iran, Mauritania, Saudi Arabia, the Sudan and Yemen, and in parts of Nigeria and Somalia, the death penalty may be applied in cases of consensual homosexual conduct. Death is also the prescribed punishment for homosexuality in the revised penal code of Brunei, although relevant provisions have yet to take effect.

47. The application of the death penalty in this context represents a grave violation of human rights, including the rights to life, privacy and non-discrimination. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights have repeatedly expressed concern about death sentences for consensual adult sexual conduct.[75] The Special Rapporteur on extrajudicial, summary or arbitrary executions has reiterated that death sentences may only be imposed for the most serious crimes and that offences related to homosexual conduct and sexual relations between consenting adults do not meet that threshold.[76]

3. "Anti-propaganda" laws

48. In the past two years, laws have been enacted or proposed in several States that seek to restrict public discussion of sexual orientation under the guise of "protecting minors" from information on so-called "non-traditional sexual relations".[77] These laws, sometimes called "anti-propaganda" laws, are often vaguely worded and arbitrarily restrict the rights to freedom of expression and assembly. They also contribute to ongoing persecution of members of the LGBT community, including young persons who identify or are perceived as LGBT.[78] The Special procedures mandate holders on human rights defenders, on freedom of opinion and expression and on freedom of peaceful assembly and of association

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[70] Lucas Paoli Itaborahy and Jingshu Zhu, *State-sponsored Homophobia*, International Lesbian, Gay, Bisexual, Transgender and Intersex Association (ILGA), Brussels, 2014), p. 21. Mozambique and Palau have decriminalized homosexuality since the publication of the report.

[71] See CCPR/C/KWT/CO/2, para. 30.

[72] See CCPR/C/PHL/CO/4, para. 10, CCPR/C/ETH/CO/1, para. 12.

[73] See A/HRC/26/29, para. 27, CCPR/C/SLE/CO/1, para. 11.

[74] A/HRC/28/66, para. 42.

[75] See CCPR/C/YEM/CO/5, para. 13, E/C.12/IRN/CO/2, para. 7.

[76] See A/67/275, paras. 36-38, A/HRC/27/23, para. 28.

[77] See CEDAW/C/KGZ/CO/4, para. 9.

[78] See CCPR/C/106/D/1932/2010, para. 10.8, CCPR/C/ITU/CO/3, para. 8.

have expressed concerns in this context about developments in Kyrgyzstan, Nigeria, the Republic of Moldova, the Russian Federation, Uganda and Ukraine.[79]

49. In some cases, these laws have been accompanied by bans on non-governmental organizations receiving funding from abroad, allegedly in order to curb the influence of "foreign agents".[80] Such measures put defenders at risk of arrest, violence and discrimination, and can threaten rights relating to, inter alia, health, education, cultural expression and information.[81]

B. Discriminatory practices[82]

1. Health care

50. Laws criminalizing homosexuality and the discriminatory policies, practices and attitudes of health-care institutions and personnel adversely affect the quality of health services,[83] deter individuals from seeking services,[84] and may lead to the denial of care or to an absence of services that respond to the specific health needs of LGBT and intersex persons.[85]

51. The negative health impact of laws criminalizing homosexuality has been widely acknowledged, including by the World Health Organization (WHO), the United Nations Development Programme (UNDP), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the treaty bodies and the special procedures of the Human Rights Council.[86] The Global Commission on HIV and the Law found, for instance, that in Caribbean countries with laws that criminalize homosexuality, almost one in four men who have sex with men is HIV positive; the equivalent figure in Caribbean countries with no such laws is one in 15.[87]

52. There is mounting concern about so-called "conversion therapies" intended to "cure" homosexual attraction. Such therapies have been found to be unethical, unscientific and ineffective and, in some instances, tantamount to torture – leading to successful legal challenges and bans in several countries.[88] In Ecuador, concerns have been raised about

[79] See A/HRC/23/51, UKR 3/2012; A/HRC/25/74, MDA 4/2013; RUS 3/2013, RUS 4/2013; A/HRC/26/21, NGA 1/2014, UGA 1/2014, UGA 1/2013; A/HRC/27/72, KGZ/1/2014.

[80] A/HRC/25/74, RUS 3/2013.

[81] See A/66/203, paras. 17-18; A/69/307, paras. 84-89.

[82] See also A/HRC/19/41, paras. 48-73.

[83] See CCPR/C/TUR/CO/1, para. 10; CEDAW/C/NOR/CO/8, paras. 33-34.

[84] See CCPR/C/JAM/CO/3, paras. 8-9; A/HRC/14/20, paras. 20-23. See also UN Free & Equal factsheet, "Criminalization" (available at www.unfe.org/en/fact-sheets).

[85] See A/64/272, para. 46.

[86] See "Secretary-General, in observance message, equates fight against homophobia with struggle to eliminate racism, promote gender equality", press release, 16 May 2013; E/C.12/JAM/CO/3-4, para. 28; and *Risks, Rights and Health*, Global Commission on HIV and the Law, UNDP, 2012, in particular pp. 44-54.

[87] Ibid., p. 45.

[88] See A/HRC/22/53, para. 88; Sharon Bernstein, "Supreme Court won't intervene in California ban on gay-conversion therapy", Reuters, 1 July 2014; and Ed Adamczyk, "Beijing court rules gay-conversion clinic treatments illegal", UPI, 19 December 2014.

"rehabilitation clinics" where lesbians and transgender youths have been forcibly detained with the collusion of family members and subjected to torture, including sexual abuse.[89]

53. Many intersex children, born with atypical sex characteristics, are subjected to medically unnecessary surgery and treatment in an attempt to force their physical appearance to align with binary sex stereotypes. Such procedures are typically irreversible and can cause severe, long-term physical and psychological suffering. Those to have called for an end to the practice include the Committee on the Rights of the Child, the Committee against Torture, the special procedures mandate holders on the right to health and on torture.[90]

54. Transgender persons often face particular difficulties in their access to appropriate health care. Health-care professionals may be insensitive to their needs, lack relevant knowledge and treat transgender persons in a discriminatory manner. Gender reassignment therapy, where available, is often prohibitively expensive. In certain situations, it is coerced.[91]

2. Education

55. Many children and adolescents perceived as LGBT or gender non-conforming experience discrimination, harassment and, in some cases, violent abuse both in and outside of school.[92] Such abuse can force students to skip or drop out of school, and can lead to feelings of isolation and depression, even suicide.

56. High levels of bullying have been recorded in all regions. A European Union study found that 80 per cent of school-age children surveyed heard negative comments or saw negative conduct directed at schoolmates perceived as lesbian, gay, bisexual or transgender.[93] A survey conducted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) of students in Thailand found that more than half of LGBT respondents had been bullied in the previous month, and more than 30 per cent had experienced physical abuse.[94] These findings mirror those of studies conducted in other countries.

57. Limiting or obstructing information related to sexuality or using materials that contain stereotypes and prejudices can contribute to violence and expose young LGBT persons to health risks.[95] Comprehensive sexuality education is part of the right to education and can be a tool for combating discrimination.

3. Employment

58. In most States, national laws do not provide adequate protection from employment-related discrimination on grounds of sexual orientation and gender identity.[96] In the absence

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[89] CCPR/C/LCU/CO/5, para. 12. See "IACHR expresses concern about violence and discrimination against LGBTI persons, particularly youth, in the Americas", press release, 15 August 2013.

[90] See CRC/C/CHE/CO/2-4, para. 42, CAT/C/DEU/CO/5, para. 20, A/HRC/22/53, para. 88, A/64/272, para. 49.

[91] See A/HRC/25/61, annex II.

[92] See E/CN.4/2001/52, para. 75, E/CN.4/2006/45, para. 113, CRC/C/RUS/CO/4-5, para. 59.

[93] *EU LGBT Survey*, EU Agency for Fundamental Rights (see footnote 50), p. 12.

[94] "Bullying targeting secondary school students who are or are perceived to be transgender or same-sex attracted", Mahidol University, Plan International Thailand, UNESCO, 2014, p. 14.

[95] See CRC/C/RUS/CO/4-5, para. 55, CRC/GC/2003/4, paras. 26, 28, A/65/162, paras. 4, 6, 23, 63, A/68/290, paras. 52, 54.

[96] ILGA, *State-sponsored Homophobia* (see footnote 70), p. 21.

of such laws, employers may fire or refuse to hire or promote people simply because they are seen as lesbian, gay, bisexual or transgender.[97] Where laws do exist, they may be poorly applied. Workplace benefits available to heterosexual employees may be denied to their LGBT counterparts. Surveys indicate that discrimination and verbal and other forms of harassment in the workplace are commonplace.[98]

4. Housing

59. LGBT persons may experience discrimination in access to housing as a result of unfair treatment by public and private landlords. Concerns include LGBT individuals and same-sex couples denied leases and evicted from public housing,[99] harassed by neighbours and forced out of their homes.[100] Many LGBT-identifying adolescents and young adults are thrown out of home by disapproving parents and end up on the streets, resulting in disproportionately high rates of homelessness among this group. A recent survey of 354 homeless support agencies in the United States suggested that some 40 per cent of homeless youth identify as LGBT, with family rejection the leading cause of homelessness among this group.[101]

5. Freedom of expression, association and assembly

60. United Nations human rights experts continue to highlight discriminatory restrictions on the rights to freedom of expression, association and assembly of LGBT persons and those defending their rights.[102] Concerns include direct censorship, bans on dissemination of information and restrictions on advocacy.[103]

61. LGBT organizations continue to have registration applications rejected, reviews delayed and legal registration revoked on discriminatory grounds.[104] Permission to hold meetings, workshops and cultural events may be denied in an attempt to suppress political and artistic expression.[105] Police officers have raided the offices of LGBT groups, arrested and harassed staff and volunteers, and confiscated materials, sometimes putting the privacy and safety of staff and supporters at risk.[106] The offices of LGBT organizations have been targets of vandalism, burglary and arson,[107] and such incidents are seldom investigated promptly.[108]

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[97] See A/69/318, para. 17, and "Discrimination at work on the basis of sexual orientation and gender identity: Results of pilot research" (GB.319/ELI/S/INF/1), International Labour Office, October 2013, pp. 2-3.

[98] *EU LGBT Survey*, EU Agency for Fundamental Rights (see footnote 50), p. 17; April Guasp, "Gay in Britain: Lesbian, Gay and Bisexual People's Experiences and Expectations of Discrimination", Stonewall, 2012, pp. 3, 19.

[99] See A/69/274, para. 12.

[100] See A/HRC/19/53, paras. 50, 51, 63.

[101] See "Serving Our Youth", Williams Institute, True Colors Fund and the Palette Fund, 2012, p. 3.

[102] See CCPR/C/GEO/CO/4, para. 8; A/HRC/26/30/Add.2, para. 77.

[103] See A/HRC/20/22/Add.2, para. 55; A/64/211, paras. 21-27.

[104] See A/69/307, para. 30.

[105] See A/HRC/23/34/Add.1, paras. 101-103.

[106] See A/HRC/22/53/Add.4, para. 162.

[107] A/HRC/25/74; MKD 2/2013; A/HRC/23/51; CRI 2/2012.

[108] See A/69/307, para. 86; A/HRC/22/53/Add.4, para. 162; A/HRC/25/71, para. 55; A/HRC/26/52, para. 33.

62. Private and State agents target "pride" marches, where LGBT persons and their supporters are sometimes subjected to violence and harassment.[109] In some States, such events are denied police protection or permits, sometimes under guise of threats to public morals or safety, abrogating the State's duty to uphold freedom of assembly and to protect LGBT persons from violence.[110] In the absence of proper police protection, marchers have been physically attacked and harassed by State and non-State actors, including far-right "skinhead" groups.[111]

63. Women defenders and those advocating for gender- and sexuality-related rights are often at particular risk because they are seen as challenging traditional assumptions about the role and status of women in society.[112]

6. Asylum and migration

64. Asylum and migration policies in this context vary considerably. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that some 42 States have granted asylum to individuals with a well-founded fear of persecution owing to sexual orientation or gender identity. At international borders, migrants and refugees may be subjected to invasive physical screenings and examinations and denied entry on discriminatory grounds.[113]

65. Practices in States granting asylum sometimes fall short of international standards. Officials may be insensitive to the conditions facing LGBT asylum-seekers, and review of applications is sometimes arbitrary and inconsistent.[114] In its judgement of 2 December 2014, the Court of Justice of the European Union ordered States to cease use of intrusive questioning and medical tests purportedly designed to reveal applicants' sexual orientation. Refugees and migrants are sometimes subjected to violence and discrimination while in detention facilities,[115] and when resettled, may be housed within communities where they experience additional sexuality- and gender-related risks. The refoulement of asylum seekers fleeing such persecution exposes them to the risk of violence, discrimination, criminalization and the death penalty.[116]

7. Family and community

66. States' responsibility to protect individuals from discrimination extends to the family sphere, where rejection and discriminatory treatment of and violence against LGBT and intersex family members can have serious, negative consequences for the enjoyment of human rights. Examples include individuals being physically assaulted, raped, excluded from family homes, disinherited, prevented from going to school, sent to psychiatric institutions, forced to marry, forced to give up custody of their children, punished for activist work and subjected to attacks on personal reputation. In States where homosexuality is criminalized, victims may be reluctant to report violence perpetrated by a

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[109] See A/HRC/23/34, paras. 49-50; A/HRC/26/36/Add.2, paras. 43-45.

[110] CCPR/C/109/D/1873/2009, para. 9.6; A/HRC/23/49/Add.4, para. 22.

[111] See A/HRC/10/12/Add.1, paras. 275-280; A/HRC/11/4/Add.1, paras. 289-2294; A/HRC/16/44/Add.1, paras. 1157-1164.

[112] See A/HRC/22/47/Add.1, para. 88, and "Study on the situation of women human rights defenders in Africa", Special Rapporteur on human rights defenders, African Commission on Human and Peoples' Rights, 2015.

[113] A/69/CRP.1, p. 15.

[114] UNHCR, HCR/GIP/12/09 (see footnote 8).

[115] See A/HRC/22/53/Add.4, para. 178.

[116] See CCPR/C/108/D/2149/2012, para. 2.4; CCPR/C/103/D/1833/2008, para. 9.2.

family member for fear of the criminal ramifications of revealing their sexual orientation. Lesbians, bisexual women and transgender persons are often especially at risk owing to gender inequalities and restrictions on autonomy in decision-making about sexuality, reproduction and family life.[117]

8. Recognition of relationships and related access to State and other benefits

67. While States are not required under international law to recognize same-sex marriage,[118] the Committee on Economic, Social and Cultural Rights has called upon States to provide for legal recognition of same-sex couples.[119] As at April 2015, 34 States offered same-sex couples either marriage or civil unions, which bestow many of the same benefits and entitlements as marriage.[120] Wherever States provide benefits such as pension and inheritance entitlements for unmarried heterosexual couples, the same benefits should be available to unmarried homosexual couples.[121]

68. Lack of official recognition of same-sex relationships and absence of legal prohibition on discrimination can result in same-sex partners being treated unfairly by private actors, including health-care providers and insurance companies. The United Nations Children's Fund (UNICEF), the Committee on the Rights of the Child and the Inter-American Court of Human Rights have expressed concern at discrimination against, and the lack of legal protection of, children of same-sex couples.[122]

9. Gender recognition and related issues

69. In spite of recent advances in several countries, transgender persons are generally still unable to obtain legal recognition of their preferred gender, including a change in recorded sex and first name on State-issued identity documents. As a result, they face multiple rights challenges, including in employment and housing, applying for bank credit or State benefits, or when travelling abroad.

70. Regulations in States that recognize changes in gender often impose abusive requirements as a precondition of recognition — for example, by requiring that applicants be unmarried and undergo forced sterilization, forced gender reassignment and other medical procedures, in violation of international human rights standards.[123]

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[117] See A/68/290, para. 38; A/HRC/20/16/Add.4, para. 20; A/HRC/22/56, para. 70; A/HRC/26/38/Add.1, para. 19.

[118] See CCPR/C/75/D/902/1999.

[119] E/C.12/BGR/CO/4-5, para17; E/C.12/SVK/CO/2, para. 10.

[120] ILGA, *State-sponsored Homophobia* (see footnote 70), pp. 26-28.

[121] See CCPR/C/CHN/HKG/CO/3, para. 23; CCPR/C/78/D/941/2000, para. 10.4; CEDAW/C/SRB/CO/2-3, para. 39(d); also European Court of Human Rights, applications 29381/09 and 32684/09, 7 November 2013, paras. 79-81.

[122] See CRC/C/GC/15, para.8 and CRC/C/GAM/CO/2-3, paras. 29-30; and "Eliminating discrimination against children and parents based on sexual orientation and/or gender identity", UNICEF, position paper no.9, 2014; and Inter-American Court of Human Rights, Atala Riffo and daughters v. Chile, 24 February 2012.

[123] See CCPR/C/IRL/CO/4, para. 7; CCPR/C/UKR/CO/7, para. 10; A/HRC/22/53, para. 88; also "Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement", OHCHR, UN-Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, 2014.

C. Positive developments since 2011

71. Three States (Mozambique, Palau and Sao Tome and Principe) have decriminalized consensual same-sex conduct, and several others have accepted recommendations to do so. The United Kingdom and several states in Australia have adopted measures to expunge the criminal records of individuals convicted of consensual homosexuality-related offences.

72. Fiji has added an anti-discrimination clause in its Constitution prohibiting discrimination based on sexual orientation, gender identity and gender expression, and Malta has added gender identity to the list of prohibited grounds of discrimination included in its Constitution. Anti-discrimination laws have also been strengthened in several States, including Chile, Cuba, Georgia, the Republic of Moldova, Montenegro, as well as in Australia and Malta, which became the first countries to expressly prohibit discrimination against intersex persons.

73. Legal recognition of same-sex relationships was introduced in at least 12 additional States, either in the form of civil marriage (Brazil, Denmark, France, Luxembourg, New Zealand, United Kingdom, Uruguay) or civil unions (Chile, Croatia, Ireland, Liechtenstein, Malta). Argentina, Denmark and Malta established new laws that allow transgender persons to obtain legal recognition of their gender identity on the basis of self-determination, while Australia (Australian Capital Territory), the Netherlands and Sweden removed abusive sterilization, forced treatment and divorce requirements. Argentina furthermore established access to free gender-affirming treatment for those who wish to receive such treatment. Nepal and Bangladesh created a legal "third gender" category, and new passport policies in Australia and New Zealand allow individuals to choose male, female or indeterminate gender markers. The Supreme Court of India affirmed the right of transgender persons to determine their own gender, and called upon the Government to ensure equal rights for transgender persons, including in access to health care, employment and education. Malta became the first State to prohibit sex-assignment surgery or treatment on intersex minors without their informed consent.

74. Other initiatives include the development of a new judicial protocol to guide adjudication of cases involving human rights violations on grounds of sexual orientation and gender identity (Mexico); implementation of employment-related anti-discrimination protections (Bolivia (Plurinational State of), Botswana); new guidance materials and training for police, teachers and/or other officials (Canada, Colombia, Croatia, Denmark, Montenegro, Norway, Mexico, Serbia, Spain); expansion of anti-bullying programmes and other anti-discrimination measures in schools (Albania, Australia, Brazil, Canada, Taiwan province of China, Ireland, Portugal, Sweden, United Kingdom), and annual reporting on discrimination and violence in schools (Brazil); LGBT suicide prevention programmes (Belgium, Japan, United Kingdom); a human rights-based comprehensive sexuality education curriculum for schools (South Africa); scholarships for transgender persons who enrol in vocational training (Brazil); construction of homeless shelters for LGBT youth (Albania, United States); and no longer requiring external corroboration of sexual orientation or gender identity for LGBT asylum-seekers (Italy, Portugal).

75. National plans of action were developed to tackle discrimination against LGBT persons in Brazil, Canada (Quebec), France, Norway, South Africa and the United Kingdom, and, in Uruguay, a plan to combat the social exclusion of transgender persons. Several States also launched national public education campaigns to counter homophobia and transphobia (Argentina, Australia, Belgium (Flanders), Brazil, Colombia, Cuba, Montenegro, Serbia, South Africa, United Kingdom, Uruguay). Mexico has officially designated 17 May as the National Day against Homophobia.

VI. Conclusions and recommendations

76. The present study is the second on violence and discrimination based on sexual orientation and gender identity requested by the Human Rights Council. While some progress has been made since the first study in 2011, the overall picture remains one of continuing, pervasive, violent abuse, harassment and discrimination affecting LGBT and intersex persons in all regions. These constitute serious human rights violations, often perpetrated with impunity, indicating that current arrangements to protect the human rights of LGBT and intersex persons are inadequate. There is as yet no dedicated human rights mechanism at the international level that has a systematic and comprehensive approach to the human rights situation of LGBT and intersex persons.

77. The recommendations below describe measures to protect individuals from the kinds of human rights violations documented above. They draw from good practices observed in the course of compiling the report and recommendations of United Nations human rights mechanisms.

A. States

78. The High Commissioner recommends that States address violence by:

(a) Enacting hate crime laws that establish homophobia and transphobia as aggravating factors for purposes of sentencing;

(b) Conducting prompt, thorough investigations of incidents of hate-motivated violence against and torture of LGBT persons, holding perpetrators to account, and providing redress to victims;

(c) Collecting and publishing data on the number and types of incidents, while providing for the security of those reporting;

(d) Prohibiting incitement of hatred and violence on the grounds of sexual orientation and gender identity, and holding to account those responsible for related hate speech;

(e) Training law enforcement personnel and judges in gender-sensitive approaches to addressing violations related to sexual orientation and gender identity;

(f) Ensuring that police and prison officers are trained to protect the safety of LGBT detainees, and holding to account State officials involved or complicit in incidents of violence;

(g) Banning "conversion" therapy, involuntary treatment, forced sterilization and forced genital and anal examinations;

(h) Prohibiting medically unnecessary procedures on intersex children;

(i) Ensuring that no one fleeing persecution on grounds of sexual orientation or gender identity is returned to a territory where his or her life or freedom would be threatened, that asylum laws and policies recognize that persecution on account of sexual orientation or gender identity may be a valid basis for an asylum claim; and eliminating intrusive, inappropriate questioning on asylum applicants' sexual histories, and sensitizing refugee and asylum personnel.

79. States should address discrimination by:

(a) Revising criminal laws to remove offences relating to consensual same-sex conduct and other offences used to arrest and punish persons on the basis of their sexual orientation and gender identity or expression; ordering an immediate moratorium on related prosecution; and expunging the criminal records of individuals convicted of such offences;

(b) Repealing so-called "anti-propaganda" and other laws that impose discriminatory restrictions on freedom of expression, association and assembly;

(c) Ensuring that anti-discrimination legislation includes sexual orientation and gender identity among prohibited grounds, and also protects intersex persons from discrimination;

(d) Integrating analysis of violations based on sexual orientation and gender identity in national plans of action, thereby ensuring coordination and adequate resourcing of related activities, accountability for perpetrators, and redress for victims;

(e) Sensitizing health-care workers to the health needs of LGBT and intersex persons, including in the areas of sexual and reproductive health and rights, suicide prevention, HIV/AIDS and trauma counselling;

(f) Establishing national standards on non-discrimination in education; developing anti-bullying programmes and establishing helplines and other services to support LGBT and gender-non-conforming youth; and providing comprehensive, age-appropriate sexuality education;

(g) Ensuring that housing policies do not discriminate against tenants based on sexual orientation and gender identity; and establishing shelters for homeless LGBT persons, with specific attention to youth, older persons and those in emergency situations;

(h) Providing legal recognition to same-sex couples and their children, ensuring that benefits traditionally accorded married partners – including those related to benefits, pensions, and taxation and inheritance – are accorded on a non-discriminatory basis;

(i) Issuing legal identity documents, upon request, that reflect preferred gender, eliminating abusive preconditions, such as sterilization, forced treatment and divorce;

(j) Supporting public education campaigns to counter homophobic and transphobic attitudes, and addressing negative, stereotypical portrayals of LGBT persons in the media;

(k) Ensuring that LGBT and intersex persons and organizations are consulted with regard to legislation and policies that have an impact on their rights.

B. National human rights institutions

80. The High Commissioner recommends that national human rights institutions address violence and discrimination against LGBT and intersex persons in the context of their respective mandates to promote and monitor effective implementation of international human rights standards at the national level.

C. Human Rights Council

81. **As the intergovernmental body with responsibility for promoting and protecting human rights worldwide, the Human Rights Council should keep itself regularly informed of patterns of violence and discrimination linked to sexual orientation and gender identity, as well as emerging State responses. To this end, OHCHR stands ready to submit further reports upon request, and current special procedures mandate holders should be encouraged to continue to report on related violations within their respective mandates.**